

MASON'S MINNESOTA STATUTES

1927

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EMBRACING THE ORGANIC LAWS, THE CONSTITUTION, AND THE STAT-
UTES CONTAINED IN THE GENERAL STATUTES OF 1923, EXCEPT
THOSE WHICH HAVE BEEN REPEALED OR SUPERSEDED
BY THE SUBSEQUENT LEGISLATION OF 1925
AND 1927

AND ALSO EMBRACING LAWS OMITTED FROM THE GENERAL STATUTES
1923, AND THE LAWS OF THE 1925 AND 1927 SESSIONS OF THE
LEGISLATURE UNDER APPROPRIATE CLASSIFICATION.

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(5) When any partner wrongfully causes a dissolution and the remaining partners continue the business under the provisions of section 38 (2b), either alone or with others, and without liquidation of the partnership affairs, creditors of the dissolved partnership are also creditors of the person or partnership continuing the business.

(6) When a partner is expelled and the remaining partners continue the business either alone or with others, without liquidation of the partnership affairs, creditors of the dissolved partnership are also creditors of the person or partnership continuing the business.

(7) The liability of a third person becoming a partner in the partnership continuing the business, under this section, to the creditors of the dissolved partnership shall be satisfied out of partnership property only.

(8) When the business of a partnership after dissolution is continued under any conditions set forth in this section the creditors of the dissolved partnership, as against the separate creditors of the retiring or deceased partner or the representative of the deceased partner, have a prior right to any claim of the retired partner or the representative of the deceased partner against the person or partnership continuing the business, on account of the retired or deceased partner's interest in the dissolved partnership or on account of any consideration promised for such interest or for his right in partnership property.

(9) Nothing in this section shall be held to modify any right of creditors to set aside any assignment on the ground of fraud.

(10) The use by the person or partnership continuing the business of the partnership name, or the name of a deceased partner as part thereof, shall not of itself make the individual property of the deceased partner liable for any debts contracted by such person or partnership. ('21 c. 487 § 41)

7425. Rights of retiring or estate of deceased partner when the business is continued—When any partner retires or dies, and the business is continued under any

of the conditions set forth in section 41 (1, 2, 3, 5, 6), or section 38 (2b), without any settlement of accounts as between him or his estate and the person or partnership continuing the business, unless otherwise agreed, he or his legal representative as against such persons or partnership may have the value of his interest at the date of dissolution ascertained, and shall receive as an ordinary creditor an amount equal to the value of his interest in the dissolved partnership with interest, or, at his option or at the option of his legal representative, in lieu of interest, the profits attributable to the use of his right in the property of the dissolved partnership; provided that the creditors of the dissolved partnership as against the separate creditors, or the representative of the retired or deceased partner, shall have priority on any claim arising under this section, as provided by section 41 (8) of this act. ('21 c. 487 § 42)

7426. Accrual of actions—The right to an account of his interest shall accrue to any partner, or his legal representative, as against the winding up partners or the surviving partners or the person or partnership continuing the business, at the date of dissolution, in the absence of any agreement to the contrary. ('21 c. 487 § 43)

PART VII.

MISCELLANEOUS PROVISIONS

7427. When act takes effect—This act shall take effect on the first day of June one thousand nine hundred and twenty-one. ('21 c. 487 § 44)

7428. Legislation repealed—All acts or parts of acts inconsistent with this act are hereby repealed, except sections 7916 and 7917, General Statutes, 1913, and all parts thereof, which shall remain in full force and effect and apply to joint obligations arising under this Act. ('21 c. 487 § 45)

Explanatory note—For G. S. 1913, §§ 7916, 7917, see §§ 9411, 9412, herein.

CHAPTER 58

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GENERAL PROVISIONS

7429. Existing corporations continued—Until otherwise provided by law, all private corporations existing and doing business at the time of the taking effect of the Revised Laws, shall continue to exercise and enjoy all powers and privileges possessed by them under their respective articles of incorporation and the laws applicable thereto then in force, and shall remain subject to all the duties and liabilities to which they were then subject. (2838) [6133]

Right to exercise power of eminent domain, conferred on corporation organized under G. S. 1894 c. 34 tit. 1, was not abrogated, but confirmed and re-enacted, by Revised Laws (101-132, 112+13).

Cited (107-506, 121+395; 113-459, 130+18).
 See (120-395, 139+711, 193+173).

7430. Terms defined—The term "private corporation," as used in this chapter, shall include every company, association, or body endowed by law with any corporate power or function whatsoever, except such as are formed solely for public and governmental purposes, which shall be deemed public corporations. And, when not otherwise indicated by the context, the word "corporation" shall mean a private corporation. The

term "certificate of incorporation," whenever used in this chapter in reference to corporations formed prior to the taking effect of the Revised Laws, shall be construed as meaning articles of incorporation. (2839) [6134]

Notwithstanding this section, action may be maintained against a municipal corporation (113-55, 129+158).

7431. Domestic and foreign corporations defined—The term "domestic corporation" shall mean every corporation organized under the laws of this state, and the term "foreign corporation" shall mean every other corporation. (2840) [6135]

7432. Public service corporations—Purposes of—Corporations may be organized for the construction, acquisition, maintenance, or operation of any work of internal improvement, including railways, street railways, telegraph and telephone lines, canals, slack-water or other navigation, dams to create or improve a water supply or to furnish power for public use, and any work for supplying the public, by whatever means, with water, light, heat or power, including all requisite subways, pipes and other conduits, and tunnels for transportation, or pedestrians. But no corporation so formed shall construct, maintain, or operate a railway of any kind, or any subway, pipe line, or other conduit, or any tunnel for transportation or pedestrians in or upon any street, alley, or other public ground of a city or village, without first obtaining from, and compensating said city or village for, a franchise conferring such right. (2841) [6136] (Amended '25, c. 73)

Partition of land. 210+850.

Right to occupy streets, etc.—The crossing of streets and alleys incidental to constructing a railroad from place to place does not constitute occupancy of such streets or alleys for purpose of operating a railway thereon, within this section (101-132, 112+13; 108-407, 122+486; 117-14, 134+302). A railway company, organized under G. S. 1878, c. 34 tit. 1, before or since 1893, is not authorized to acquire by condemnation the public easement in a street within a city or village for a railway along such street. A franchise must first be obtained (113-459, 130+18). Permission of municipality (81-140, 159, 83+527, 86+69).

Water power—Diversions of navigable waters—Corporation organized under G. S. 1894 c. 34 not authorized as incident to construction of canal and creation of water power, to divert waters from navigable lakes and streams so as to interfere with navigation (97-429, 107+405). A public service corporation, though authorized to condemn private property for the construction of canals and reservoirs for generation of electric power, may not exercise such power when enterprise contemplates interference with navigability of navigable waters, unless such interference is expressly authorized by statute (101-197, 112+395). Corporation organized to improve a stream for "slack-water, etc." not authorized to collect tolls (75-335, 340, 77+989).

City has no power to contract with commercial railway to strengthen city bridge (124-351, 145+609). Public service corporation may exercise eminent domain in stream but not impede its navigability (128-415, 151+198). Injunction available against commercial railway operating on public streets contrary to statute (131-185, 154+949).

7433. State and local control—Eminent domain—The state shall at all times have the right to supervise and regulate the business methods and management of any such corporation, and from time to time to fix the compensation which it may charge or receive for its services; and every such corporation obtaining a franchise from a city or village shall be subject to such conditions and restrictions as from time to time may be imposed upon it by such municipality. Every such corporation may acquire, by right of eminent domain, such private property as may be necessary or convenient for the transaction of the public business for which it was formed: Provided, that no street railway company shall have or

exercise such right within the limits of any city or village. (2842) [6137]

City of St. Cloud had power to enter into contract fixing gas rate for thirty years. 265 U. S. 352.

Eminent domain—For what purposes—Authority to condemn land appropriated to another public use (78-334, 79+315). Grant of right of eminent domain constitutional (18-155, 139). Railroad can condemn land only for railroad purposes (20-28, 19). What constitutes a public use (41-461, 43+469; 43-527, 46+75). In determining what lands are "necessary or convenient" corporations are subject to the control of the courts (37-164, 33+701). Generation of electricity by water power for distribution and sale to general public on equal terms, subject to governmental control, is a public enterprise, and property so used is devoted to public use. But creation of a water power and a water power plant for purpose of "supplying water from the wheels thereof" to public is private enterprise, in aid of which the power of eminent domain cannot be exercised (97-429, 107+405). Sections 7432, 7433, 7442, 7443, conferring the power of eminent domain on public service corporations for specified purposes, authorize the exercise of power of eminent domain in aid of construction of canals and reservoirs to create and distribute electric power for general public use (101-197, 112+395).

Cited (101-149, 150, 112+13).

"Public business"—Includes construction of works for supplying public with water, light, heat and power (101-197, 112+395).

Governmental control—Rights of city to require telephone wires to be placed under ground (81-140, 83+527, 86+69). Actual exercise of state's power of regulation and control is not condition precedent to use of power of eminent domain (101-197, 112+395).

Partition of land. 210+850.

Franchise not condition precedent—Public service corporation, authorized to furnish water, light, heat, and power for public and private use, need not first obtain franchise from municipality or a contract to furnish city or village with its products before entitled to exercise power of eminent domain (101-197, 112+395).

Construction of articles—Where articles were in compliance with G. S. 1894 c. 34 tit. 1, corporation entitled to exercise right of eminent domain, though the incorporators declared in articles that they proposed to incorporate under title 2. That organizers denominated proposed improvement "street railway" was not controlling, since it conclusively appeared that it was not the purpose to construct and operate street, but inter-urban, railways from place to place (101-132, 112+13).

Abandonment—The lands revert to the original owner when abandoned by the railway company for the purposes acquired, viz., the maintenance and operation of a railroad (100-214, 110+1128).

Construction of new line of street railway ordered by city council (122-163, 142+136; 125-237, 146+358). Limitation of public service corporations in diverting waters impairing navigability (127-28, 148+562). Charter construed (130-71, 153+262). Taking property for railway side track (135-323, 160+866).

7434. Municipality may purchase—The council of any city or village, at the end of any period of five years from the granting of a franchise for the operation of any street railway, telephone, waterworks, gas works, or any electric light, heat, or power works, when authorized so to do by a two-thirds majority of the votes cast upon the question, may acquire and thereafter operate the same, upon paying to the corporation or person owning the franchise the value of such property, to be ascertained in the manner provided by law for acquiring property under the right of eminent domain, upon petition of its governing body. Such vote shall be taken at a special election called for that purpose, and held within three months next preceding the expiration of said five-year period. The consideration for such works or property shall first be applied to the payment of any incumbrances thereon, and the remainder, if any, shall be paid to the owner of said franchise. (2843) [6138]

7435. Manufacturing and mining companies—Corporations may be formed:

1. For carrying on any kind of manufacturing or mechanical business not incompatible with an honest purpose;
2. For the mining, smelting, reducing, refining, or

working of ores or minerals, for working coal mines or stone quarries, or for buying, working, selling, or dealing in mineral lands, or for any one or more of the purposes mentioned in this paragraph. (2844) [6139]

A public service corporation generating electricity is a "manufacturing corporation" (125-20, 145+611). '19 c. 91 legalizes village elections prior to March 24, 1919, authorizing sale or leasing certain electric light plants.

7436. Mortgage loan and land companies—Corporations may be formed for the purpose of loaning money, either for themselves or as agents for others, upon mortgages or other securities, and for the purchase and sale of lands, and of money obligations secured upon real or personal property, with power to execute all contracts, incumbrances, transfers, releases, and other documents necessary or convenient to the transaction of such business. (2845) [6140]

7437. Statement to be filed with department of banking—That before any corporation which heretofore has been organized, or which hereafter may be organized under the laws of the state for any of the purposes mentioned in section 2845 of the Revised Laws of Minnesota of 1905 [7436], shall sell, offer for sale or negotiate any bonds, notes, certificates of indebtedness or other evidences of debt which are secured to be paid by the deposit or pledge with a trustee of any notes or other obligations secured by mortgages on real estate in Minnesota or elsewhere, or by the deposit or pledge of other evidences of indebtedness owned, issued, negotiated or guaranteed by it, such corporation shall file in the office of the department of banking of this state, a statement showing the aggregate amount of such bonds, notes, certificates of indebtedness or other evidences of debt then proposed to be sold or offered for sale, the name of the trustee to whom the securities for the payment of the same are to be pledged or assigned, together with a statement of the face value and such corporation's estimate of the actual value of the securities so to be pledged or assigned. ('13 c. 442 § 1) [6141]

Act is valid. 167-286, 209+9.

These sections of the statute were not repealed by the enactment of the "Blue Sky Law," sections 3977-4000, G. S. 1923. 167-286, 209+9.

A tax certificate is evidence that the land against which it is issued is indebted to the state in a certain amount for taxes. Such certificates are embraced in the term, "evidences of indebtedness." 167-286, 209+9.

7438. Capital to be paid in—Deposit with trustee—No such corporation shall sell or offer for sale any such bonds, notes, certificates of indebtedness or other evidences of debt until at least one hundred thousand dollars (\$100,000) has been actually paid into the treasury of such corporation on account of the capital stock thereof and until there has been deposited and pledged with such trustee, notes secured by such real estate mortgages or such other securities, or both, of an aggregate par value at least equal to the principal sum of the obligations to be secured thereby, and bearing annual interest amounting in the aggregate to at least the annual interest upon the obligations so secured. ('13 c. 442 § 2) [6142]

7439. Duties and powers of superintendent of banks—Fees—Upon the filing by any such corporation of any such statement, if a trust company organized under the laws of this state is not designated as such trustee, then the superintendent of banks shall inquire into and determine the financial responsibility of the person, firm or corporation proposed as such trustee, and he may approve or disapprove the trustee so named, and unless such trustee be approved by him

it shall not be lawful for any such corporation transacting the business described in section one (1) [7437] of this act to sell or offer for sale any such bonds, notes, certificates of indebtedness or other evidences of debt.

The said superintendent of banks shall at all times have the power, and upon the request of any such corporation it shall be his duty, to examine the same by inspecting and verifying the assets and liabilities thereof, and so far investigate the character and value of the assets of such corporation as to ascertain with reasonable certainty that the values are correctly carried upon its books, and may also investigate its methods of operation and conduct to ascertain whether the same are in accordance with law.

Such corporation shall pay into the state treasury the same fees for such examinations as trust companies are required to pay under section 14 of chapter 201 of the Laws of 1909. ('13 c. 442 § 3) [6143]

7440. Other purposes for which corporations may be formed—Corporations may be formed for any of the following purposes:

1. Constructing, leasing, or operating docks, warehouses, elevators, public halls, or hotels.

2. Carrying on any kind of lumbering, agricultural, dairying, mercantile, chemical, transportation, or other lawful business not otherwise provided for in this chapter.

3. Buying, selling, and improving lands and tenements.

4. Acquiring, erecting, owning, leasing, and or operating an apartment building, and the site thereof, on a co-operative basis, with or without pecuniary profit. A corporation organized under this subdivision shall not be governed by the laws relating to co-operative associations. (2847) [6145] (Amended '25, c. 178)

Meaning of "other lawful business" (40-508, 42+431).

7441. Financial corporations—Corporations may be formed for any one of the following purposes:

1. Carrying on the business of banking, by receiving deposits, buying, selling, and discounting notes, bills, and other evidences of debt, domestic or foreign, dealing in gold and silver bullion and foreign coins, issuing circulating notes, and loaning money upon real estate or personal security;

2. Establishing and conducting clearing houses, for effecting, in one place, the speedy and systematic daily exchange and adjustment of balances between banks and bankers in any municipality, town, or county, establishing and enforcing uniform methods of conducting the banking business in such locality, and adjusting disputes or misunderstandings between members of such clearing house engaged in the banking business;

3. Creating and conducting savings banks for the reception, on deposit of money offered for that purpose, the investment thereof, and the declaring, crediting, and paying of dividends thereon as authorized and provided by law;

4. Transacting business as a trust company in conformity with the laws relating thereto; and

5. Carrying on, in accordance with law, the business of building, loan, and savings associations. (2847) [6145]

7442. Insurance corporations—Corporations may be formed for carrying on any one branch of the business of insurance authorized by law, or any two or more branches thereof which are permitted by law to be transacted by one company. (2848) [6146]

7443. How organized—Certificate— Any three or more persons may form a corporation for any of the purposes specified in this subdivision by complying with the conditions hereinafter prescribed. They shall subscribe and acknowledge a certificate specifying:

1. The name, the general nature of its business, and the principal place of transacting the same. Such name shall distinguish it from all other corporations, domestic or foreign, authorized to do business in this state, and shall contain the word "company," "corporation," "bank," "association," or "incorporated." In the case of a state bank the name shall contain the words "state bank."

2. The period of its duration, if limited.

3. The names and places of residence of the incorporators.

4. In what board its management shall be vested, the date of the annual meeting at which it shall be elected, and the names and addresses of those composing the board until the first election, a majority of whom, in the case of savings banks and building and loan associations, shall always be residents of the state.

5. The amount of capital stock, if any, how the same is to be paid in, the number of shares into which it is to be divided, and the par value of each share; and, if there is to be more than one class, a description and the terms of issue of each, and the method of voting thereon.

6. The highest amount of indebtedness or liability to which the corporation shall at any time be subject.

It may also contain any other lawful provision defining and regulating the powers or business of the corporation, its officers, directors, trustees, members, and stockholders. (R. L. § 2849, amended '07 c. 468 § 1; '19 c. 111 § 1) [6147]

Subd. 1. Common surname used in corporate name of different rival competitors in kindred business (144-300, 175+551).

Subd. 6. Execution of notes must be under authority of board of directors pursuant to charter (134-445, 159+1078). Rights and liabilities measured by corporate charter (154-455, 192+348).

A corporation, whose indebtedness already exceeded the limitation specified in the articles of incorporation, borrowed money and issued its bonds to the lenders. The bonds were secured by a trust deed. The corporation brought suit to avoid the deed on the ground that in borrowing the money its officers had exceeded their authority. Held:

(1) That neither the corporation nor its trustee in bankruptcy could maintain the suit without returning the borrowed money.

(2) That it was not essential to the right of the bondholders to enforce the obligation of the corporation to show that they were ignorant of the fact that its officers had exceeded the limit of authorized corporate indebtedness. 158-282, 197+262.

The matter of the organization of a corporation is regulated by the statute and its requirements, as to the amount of capital stock which must be subscribed and paid for, are a material prerequisite, and must be complied with before the corporation may acquire and hold the property. 158-459, 197+964.

Articles of incorporation considered and construed. Held, that the same do not limit the business of the corporation to that of manufacturing. 163-28, 203+423.

Where authorized officers incur an indebtedness in excess of fixed amounts, and the company receives the full benefit thereof, and the company and its stockholders acquiesce in such transactions for a number of years, neither the corporation nor its stockholders can thereafter be heard to say that the transaction was ultra vires. 165-330, 206+646.

7444. Filing and record of certificate—The certificate of every such corporation shall be filed for record with the secretary of state, who, if he finds that it conforms to law, and, if a financial corporation, has indorsed thereon the approval of the public examiner, or, if an insurance company, that of the insurance

commissioner, and, in every case, that the required fee has been paid, shall record the same and certify that fact thereon. After such record, such certificate shall be filed for record with the register of deeds of the county of the principal place of business as specified in the certificate. (2850) [6148]

Liability of stockholders for failure to file (61-375, 63+1079).

Cited (139+135).
Whether certificate of amended articles should be filed in county of principal place of business or in that of original certificate (120-103, 139+135).

7445. Publication of certificate—Every such certificate of incorporation shall be published in a qualified newspaper in the county of such principal place of business, for two successive days in a daily, or for two successive weeks in a weekly newspaper. Upon filing with the secretary of state proof of such publication, its corporate organization shall be complete. (2851) [6149]

Effect of failure to file proof with secretary of state (49-99, 51+663; 67-194, 69+810. See 37-91, 33+219). When corporate organization is completed (142-442, 172+494).

7446. Proof of publication filed after business commenced—Curative—That every private corporation heretofore in good faith organized or attempted to be organized under the general laws of this state, but where an affidavit of proof of the publication of the articles of incorporation of such corporation was not filed in the office of the secretary of state until after said corporation commenced doing business, but such affidavit of proof has been heretofore filed in the office of the secretary of state, and where the persons organizing such corporations have acted in good faith and corporate meetings have been held and business transacted, and such defective corporation has acted in all things as though there were no errors or omissions in its organization the same is hereby declared to be in law a valid and legal corporation de jure and shall be so deemed and held in all courts as to all transactions, past and future, the same as though there was no defect in its organization; provided, this act shall not affect any action at law now pending. ('05 c. 342 § 1) [6150]

See '15 c. 120 Curative Act, also '17 c. 50 and '23 c. 3.

7446-1. Articles of incorporation not published and affidavit thereof not filed until after date of commencement of corporation—Curative act—That every private corporation heretofore in good faith organized or attempted to be organized under the general laws of this state, but where the articles of incorporation were not published and the affidavit of such publication was not filed in the office of the secretary of state until after the date fixed for the commencement of the corporation, or where it appears in the acknowledgment of the articles of incorporation that same was taken prior to the date of such articles; but that such affidavit of proof of publication has been heretofore filed in the office of the secretary of state, and where the persons organizing such corporation have been acting in good faith and corporate meetings have been held and business transacted, and such defective corporation has acted in all things as though there were no errors or omissions in its organization the same is hereby declared to be in law a valid and legal corporation de jure and shall be so deemed and held in all courts as to all transactions past and future, the same as though there was no defect in its organization; provided, this act shall not affect any action now pending in any court. ('27, c. 78, § 1)

7446-2. Same—That every private corporation heretofore in good faith duly incorporated under the gen-

eral laws of this state, except that the affidavit of publication of the articles of incorporation was not filed in the office of the secretary of state until after said corporation commenced doing business, but which affidavit has been heretofore filed in said office and the persons organizing such corporation have acted in good faith and corporate meetings have been held and business transacted and such corporation has acted in all things as though there were no errors or omissions in its organization, is hereby declared to be a valid and legal corporation and shall be so deemed and held in all courts as to all transactions, past and future, the same as though there were no such defect in its organization; provided this act shall not affect any action at law now pending. ('27, c. 352)

7447. General powers—Every corporation formed under the provisions of this chapter shall have power:

1. To have succession by its corporate name for the time stated in its certificate of incorporation.
2. To sue and be sued in any court.
3. To have and use a common seal and alter the same at pleasure.
4. To acquire, by purchase or otherwise, and to hold, enjoy, improve, lease, incumber, and convey all real and personal property necessary to the purposes of its organization, subject to the limitations hereafter declared.
5. To elect or appoint, in such manner as it may determine, all necessary or proper officers, agents, boards, and committees, to fix their compensation, and define their powers and duties.
6. To make and amend, consistently with law, by-laws providing for the management of its property and the regulation and government of its affairs.
7. To wind up and liquidate its business in the manner provided by law. (2852) [6151]

May incur debts and give negotiable paper therefor (23-6; 28-291, 94799). Liability on accommodation paper (41-84, 42+926; 68-129, 70+1085).

A corporation authorized to deal in lands, bonds, mortgages, notes and stocks, and all kinds of personal property, to loan money and purchase and rediscount paper, to act as agent or broker in the buying and selling of real and personal property, and to deal in insurance as agent or broker, with general power to do whatever is proper and necessary to carry out its specifically granted powers, is not authorized to engage in contracting for hauling with auto trucks gravel used in the construction of a road under construction by the state, although it is the owner of some auto trucks which would be used in such work. 156-104, 194+107.

7447-1. Sale, lease, or exchange of property, etc.—**Procedure**—Every corporation heretofore or hereafter organized under the laws of this state may at any meeting of its board of directors, sell, lease or exchange all of its property, rights, privileges and franchises upon such terms and conditions as its board of directors deem expedient, and for the best interests of the corporation, when and as authorized by the affirmative vote of the holders of two-thirds of the shares of stock of the company issued and outstanding having voting power, given at a stockholders' meeting duly called for that purpose, or when authorized by the written consent of the holders of two-thirds of the shares of stock of the company issued and outstanding having voting power. Provided, however, that the certificate of incorporation may require the vote or written consent of a larger portion of the stockholders. ('25, c. 320, § 1)

7448. Certain conveyances legalized—That whenever a person or corporation qualified to acquire and own real property in this state shall have purchased such property from a foreign or domestic corporation

disqualified to acquire, hold or dispose of such property, if the conveyance evidencing such purchase shall heretofore have been recorded in the office of the register of deeds for the proper county, the title to such property shall not be held invalid or unmarketable by reason of the fact that the same was derived through such disqualified corporation; provided, however, that nothing herein contained shall affect pending litigation. ('09 c. 246 § 1) [6152]

7449. Deeds of trust may draw interest at 8%—Any public service corporation owning property in this state may mortgage or execute deeds of trust of the whole or any part of its property and franchises to secure money borrowed by it for the construction and equipment of its lines and properties and for its corporate purposes, and issue its corporate bonds in sums of not less than one hundred dollars (\$100.00) secured by said mortgages or deeds of trust, bearing interest at a rate not exceeding eight per cent (8%) per annum; such mortgages or deeds of trust may by their terms include after-acquired property, real and personal, and shall be as valid and effectual for that purpose as if such after-acquired property were owned by and in possession of the corporation giving such mortgage or deed of trust at the time of the execution thereof. ('17 c. 10 § 1, amended '19 c. 127 § 1; '21 c. 131 § 1)

7450. Execution of mortgages and deeds of trust legalized—That in cases where any public service corporation owning property in this state has mortgaged or executed deeds of trust of the whole or any part of its property and franchises to secure money borrowed by it for the construction and equipment of lines and properties and for its corporate purposes, and issued its corporate bonds in sums of not less than one hundred dollars (\$100.00) secured by mortgages or deeds of trust, bearing interest at a rate not exceeding eight per cent (8%) per annum and such mortgages or deeds of trust have by their terms included after-acquired property, real and personal, or have borne interest at a rate not exceeding eight per cent (8%) per annum, such mortgages and deeds of trust are hereby legalized and made valid and effectual to all intents and purposes as if such after-acquired property were owned by and in possession of the corporation giving such mortgage or deed of trust at the time of the execution thereof, and as if such corporate bonds bore interest at the rate of seven per cent (7%) per annum. ('17 c. 10 § 2, amended '21 c. 131 § 2)

7451. Certain mortgages or deeds of trust legalized—In all cases where any public service corporation owning property in this state has heretofore mortgaged or executed deeds of trust of the whole or any part of its property and franchises to secure money borrowed by it for the construction or equipment of its properties, and for its corporate purposes, and issued its corporate bonds bearing interest at a rate of not exceeding seven per cent per annum, and such mortgages or deeds of trust have been duly executed and are valid in all respects except as to the rate of interest specified therein, such mortgages and deeds of trust are hereby legalized and made valid in all respects. ('19 c. 174 § 1)

7452. Additional powers—In addition to the powers enumerated in § 7447, every such corporation, except the financial corporations hereinafter in this chapter specified, shall have power to issue more than one class of stock. And any corporation organized under § 7435 may take, acquire and hold stock in any other

corporation, if a majority of the stockholders shall elect. (2853) [6153]

7453. By-laws, how adopted—The first board of directors, trustees, or managers shall adopt by-laws, which shall remain effective until and except as amended by the stockholders or members at any regular or special meeting called therefor. (2854) [6154]

Notice of by-laws is chargeable to purchaser of notes (134-449, 159+1078).

7454. By-laws and statement to be filed and posted—A copy of the by-laws of every corporation, whose articles are filed with the secretary of state, the names of its officers and a statement of the amount of the capital stock actually and in good faith subscribed for, if there be any, the amount and character of payments actually made thereon, and in the case of corporations empowered to take private property, the amount of its indebtedness in a general way, shall also be kept posted in its principal place of business; which statement shall be corrected as often as any material change takes place in relation to any part of the subject matter of such statement. (2855) [6155]

44-478, 479, 47+155; 61-375, 395, 63+1079.

7455. Duration of corporate existence—Renewal—A railroad corporation may be formed for any period specified in its certificate of incorporation. A savings bank shall have perpetual succession. Every other corporation, except as hereinafter otherwise provided, shall be formed for a period not exceeding thirty years in the first instance, but may be renewed from time to time for a further term not exceeding thirty years, whenever a three-fourths vote of the stock or members in case of mutual or non-stock corporations represented at any regular meeting, or at any special meeting called for that purpose, which shall have been clearly specified in the call, shall have heretofore or shall hereafter adopt a resolution to that effect, and in case of stock companies when those desiring it shall have purchased at its value the stock of those opposed thereto. Social and charitable corporations may have perpetual succession whenever it shall be so provided in the certificate of incorporation or, in the case of existing corporations, in an amendment of the certificate of incorporation adopted within ninety (90) days after the taking effect of this act. (R. L. '05, § 2856; amended '07, c. 468, § 2; '21, c. 39, § 1; '27, c. 32) [6156]

7456. When renewal takes effect—No such resolution shall take effect until a duly certified copy thereof shall have been filed, recorded, and published in the same manner as its original certificate. (2857) [6157]

'09 c. 36 §§ 1, 2 provides that any local building association whose corporate existence expired within 3 years prior to February 25, 1909, may renew and extend same; then existing rights of any stockholder or other person are not to be affected thereby.

'11 c. 22 §§ 1, 2 provides that any local building association whose corporate existence expired within 2 years prior to March 9, 1911, may renew and extend same.

'09 c. 149 §§ 1, 2, 3, 4 provides that any turnpike or plank road concern whose corporate existence expired within 5 years prior to April 6, 1909, may renew and extend same.

'15 c. 47 § 1, provides that any corporation for pecuniary profit and not empowered to take private property for public use the existence of which expired less than 3 years prior to April 15, 1915, may renew and extend same.

'17 c. 30 § 1, provides that any corporation for pecuniary profit, the existence of which expired less than 4 years prior to Feb. 21, 1917, be permitted to renew and extend same; that such renewal be within 6 months and not to apply to forfeiture of charter by final judgment.

'19 c. 63 §§ 1, 2, 3, 4, provides that any corporation the existence of which has expired, may, from date of expiration, prior to March 12, 1919, renew and extend

same; that such renewal be within 6 months and not apply to then pending proceedings for a forfeiture of charter by final judgment.

'21 c. 121 § 1, provides that any corporation for pecuniary profit, the existence of which expired less than 4 years prior to March 29, 1921, may renew and extend same; that such renewal be within 6 months and not apply to forfeiture of charter by final court judgment.

'23 c. 357, provides that any corporation for pecuniary profit the existence of which has expired, may, from date of such expiration, prior to April 19, 1923, renew and extend same; that such renewal be within 6 months and not to apply to forfeiture of charter by final judgment.

'23 c. 46, provides that any corporation not empowered to take private property for public use the existence of which has expired less than 15 years prior to March 6, 1923, may from date of such expiration, renew and extend same; that such renewal be within 6 months and not apply to any pending litigation or forfeiture of charter by final judgment, and further, that all acts and conveyances, prior and subsequent are legalized and validated.

'17 c. 132 § 1, provides that any flour mill, the corporate existence of which expired in January, 1917, and during said month, if taken before expiration, shall have, in good faith, initiated proceedings for extension, but the resolution therefor cannot be recorded and published because of expiration, same is granted until May 1, 1917, for legal completion and all acts are to relate back to time of expiration.

'17 c. 115 § 1, provides that any co-operative creamery association the corporate existence of which has expired less than 3 years prior to March 26, 1917, may renew and extend same for 20 years, that such renewal be within 6 months and not apply to forfeiture of charter by final court judgment.

'23 c. 37, provides that any co-operative creamery association, the existence of which has expired less than 3 years prior to February 26, 1923, may renew and extend same for 20 years; that such renewal be within 6 months and not apply to then pending litigation or forfeiture of charter by final court judgment.

'23 c. 185, provides that any co-operative creamery association, the existence of which has expired less than 3 years prior to April 10, 1923, and has commenced or attempted to commence proceedings for renewal prior to February 10, 1923, may renew and extend same for an additional 20 years from date of expiration.

Where there were defective proceedings for renewal of corporate existence, initiated in good faith within the period of existence, but the resolution therefor was not filed within the period of existence, the prescribed limitation therefor is provided for legal compliance and completion; application not extending to then pending litigation, in each of the following instances:

'09 c. 140 § 1, where proceedings were taken in December, 1906, such period shall be not later than July 1, 1909.

'11 c. 244 § 1, where proceedings were taken in September, 1901, such period shall be not later than July 1, 1911.

'13 c. 213 § 1, where proceedings were taken in March, 1911, such period shall be not later than July 1, 1913.

'13 c. 275, § 1, where proceedings were taken in May, 1912, such period shall be not later than June 1, 1913.

'17 c. 40 § 1, such period shall be not later than July 1, 1917.

'17 c. 178 § 1, where, in any case of a local building and loan association, proceedings were taken in February, 1916, such period shall be not later than May 1, 1917, and within the prescribed limitation comply with and perfect certain specifically enumerated steps.

'21 c. 150, where any corporation other than one having power of eminent domain, shall have, within 2 years, taken proceedings, same being after, but within 2 years of expiration thereof, such proceedings shall be legalized and validated, pending actions excepted, when specifically prescribed steps have been legally completed.

7457. Renewal of corporate existence of certain corporations authorized—That in all cases where a corporation organized under the laws of Minnesota, and now operating as such, has heretofore and prior to Jan. 1, 1923, attempted to take the proceedings required by law for the extension or renewal of the period of its corporate existence, but there have been defects or irregularities in such proceedings, but the statutory fees for such extension or renewal have been paid to the state treasurer and a certificate evidencing such extension or renewal filed with the secretary of state,

such proceedings are hereby validated and made legal, notwithstanding such defects or irregularities. ('23 c. 230 § 1)

§ 2 excepts pending actions.

7457-1. Corporate existence renewed where copy of resolution of renewal has not been filed—That in any case where a corporation created by and under the laws of this state shall have duly adopted a resolution extending its corporate existence, by a vote of more than three-fourths of the stock of such corporation, for a period of not to exceed 30 years from its expiration, and without opposition from any stockholder thereof, and such resolution was duly adopted within the period of its corporate existence and within one year prior to the termination of such corporation, and where a certified copy thereof has not been filed, recorded and published, as provided by law, within the period of its corporate existence, or since, and where such corporation has continued to transact its business, such corporation shall have six months from and after the passage of this act to cause a certified copy of such resolution to be recorded in the office of the register of deeds of the county where such corporation is located, and in the office of the secretary of state, and to have the same duly published as provided by law, and upon doing so, and upon paying to the state treasurer the same incorporation fees as now provided by law for the renewal of corporate existence of such corporation where such renewal is made before the end of its period of duration, the extension of the existence of said corporation shall be, and hereby is declared to be, in all respects, legal and valid, and shall have the same force and effect as if renewed prior to the expiration of its term of existence. ('27, c. 299, § 1)

Prior law—Laws 1925, c. 6, reads as follows: "Section 1. That in any case where a corporation created by and under the laws of this State shall have duly adopted a resolution extending its corporate existence, by a vote of more than three-fourths of the stock of such corporation, for a period of not to exceed thirty years from its expiration, and without opposition from any stockholder thereof, and such resolution was duly adopted within the period of its corporate existence and within six months prior to the termination of such corporation, and where a certified copy thereof has not been filed, recorded and published, as provided by law, within the period of its corporate existence, or since, and that such corporation has continued to transact its business, that such corporation shall have six months from and after the passage of this act to cause a certified copy of such resolution to be recorded in the office of the Register of Deeds of the County where such corporation is located, and in the office of the Secretary of State, and to have the same duly published as provided by law, and upon doing so, and upon paying to the State Treasurer the same incorporation fees as now provided by law for the renewal of corporate existence of such corporation where such renewal is made before the end of its period of duration, the extension of the existence of said corporation shall be, and hereby is declared to be, in all respects, legal and valid, and shall have the same force and effect as if renewed prior to the expiration of its term of existence."

"Sec. 2. When such steps are taken within such period, such proceedings shall relate back to the date of the expiration of said original corporate period, and when said period is extended as provided by this act, any and all corporate acts and contracts done, performed, made and entered into after the expiration of said original period shall be and each is hereby declared to be legal and valid."

"Sec. 3. This act shall not apply to any corporation the charter of which has been declared forfeited by the final judgment of any court of competent jurisdiction in this state, nor to any action or proceeding now pending in any of the courts in this state."

7457-2. Same—Acts and contracts validated—When such steps are taken within such period, such proceedings shall relate back to the date of the date of the expiration of said original corporate period, and when

said period is extended as provided by this act, any and all corporate acts and contracts done, performed, made and entered into after the expiration of said original period shall be and each is hereby declared to be legal and valid. ('27, c. 299, § 2)

7457-3. Same—When not applicable—This act shall not apply to any corporation the charter of which has been declared forfeited by the final judgment of any court of competent jurisdiction in this state, nor to any action or proceeding now pending in any of the courts in this state. ('27, c. 299, § 3)

7457-4. Corporate existence of corporations for pecuniary profit and social corporations renewed—Any corporation heretofore organized, for pecuniary profit, and social corporations under the laws of this state, whose period of duration has expired less than five (5) years prior to the passage of this act and the same has not been renewed and such corporation has continued to transact its business, may renew its corporate existence from the date of the expiration of its period of duration for an additional period not exceeding thirty (30) years from and after the time of its expired period of duration, with the same force and effect as if renewed prior to the expiration of its term of existence, by taking the same proceedings and by paying into the state treasury the same incorporation fees as now provided by law for the renewal of the corporate existence of such corporations in cases where such renewal is made before the end of its period of duration. ('27, c. 14, § 1)

Prior Laws—Laws 1925, c. 86 reads as follows: "Section 1. Any corporation heretofore organized, for pecuniary profit, and social corporations under the laws of this state, whose period of duration has expired less than 5 years prior to the passage of this act and the same has not been renewed and such corporation has continued to transact its business, may renew its corporate existence from the date of the expiration of its period of duration for an additional period not exceeding thirty (30) years from and after the time of its expired period of duration, with the same force and effect as if renewed prior to the expiration of its term of existence, by taking the same proceedings and by paying into the state treasury the same incorporation fees as now provided by law for the renewal of the corporate existence of such corporations in cases where such renewal is made before the end of its period of duration."

"Sec. 2. Such proceedings to obtain such extension shall be taken within six (6) months after the approval of this act."

Sec. 3. When such steps are taken within such period, such proceedings shall relate back to the date of the expiration of said original corporate period, and when said period is extended as provided by this act any and all corporate acts and contracts done, performed, made and entered into after the expiration of said original period, shall be and each is hereby declared to be legal and valid."

"Sec. 4. This act shall not apply to any corporation the charter of which has been declared forfeited by the final judgment of any Court of competent jurisdiction of this State, nor any corporation as to which there is any action or proceeding pending in any of the Courts of this State, for the forfeiture of its charter, nor to any action or proceeding now pending in any of the Courts of this State."

Laws 1925, c. 140, reads as follows: "Section 1. Any social corporation heretofore organized under the laws of this state, whose period of duration has expired and the same has not been renewed and such corporation has continued to transact its business, may renew its corporate existence from the date of the expiration of its period of duration for an additional period not exceeding thirty (30) years from and after the time of its expired period of duration, with the same force and effect as if renewed prior to the expiration of its term of existence, by taking the same proceedings and by paying into the state treasury the same incorporation fees, if any, as now provided by law for the renewal of the corporate existence of such corporations in cases where such renewal is made before the end of its period of duration."

"Sec. 2. Such proceedings to obtain such extension shall be taken within six (6) months after the approval of this act."

"Sec. 3. When such steps are taken within such period, such proceedings shall relate back to the date of the expiration of said original corporate period, and when said period is extended as provided by this act any and all corporate acts and contracts done, performed, made and entered into after the expiration of said original period, shall be and each is hereby declared to be legal and valid.

"Sec. 4. This act shall not apply to any corporation the charter of which has been declared forfeited by the final judgment of any Court of competent jurisdiction in this State, nor any corporation as to which there is any action or proceeding pending in any of the Courts of this State, for the forfeiture of its charter, nor to any action or proceeding now pending in any of the Courts of this State."

Laws 1927, c. 5, reads as follows: "Section 1. Any corporation heretofore organized, for pecuniary profit or for social and charitable purposes under the laws of this State, whose period of duration has expired less than five years prior to the passage of this act, and the same has not been renewed and such corporation has continued to transact its business, may renew its corporate existence from the date of the expiration of its period of duration for an additional period not exceeding 30 years from and after the time of its expired period of duration, with the same force and effect as if renewed prior to the expiration of its term of existence, by taking the same proceedings and by paying into the state treasury the same incorporation fee as now provided by law for the renewal of the corporate existence of such corporation in cases where such renewal is made before the end of its period of duration.

"Sec. 2. Such proceedings to obtain such extension shall be taken within six months after the approval of this act.

"Sec. 3. When such steps are taken within such period, such proceedings shall relate back to the date of the expiration of said original corporate period, and when said period is extended as provided by this act any and all corporate acts and contracts done, performed, made and entered into after the expiration of said original period, shall be and each is hereby declared to be legal and valid.

"Sec. 4. This act shall not apply to any corporation the charter of which has been declared forfeited by the final judgment of any Court of competent jurisdiction of this State, nor any corporation as to which there is any action or proceeding pending in any of the Courts of this State, for the forfeiture of its charter, nor to any action or proceeding now pending in any of the Courts of this State."

7457-5. Same—Time for taking proceedings—Such proceedings to obtain such extension shall be taken within six (6) months after the approval of this act. ('27, c. 14, § 2)

7457-6. Same—Acts legalized—When such steps are taken within such period, such proceedings shall relate back to the date of the expiration of said original corporate period, and when said period is extended as provided by this act any and all corporate acts and contracts done, performed, made and entered into after the expiration of said original period, shall be and each is hereby declared to be legal and valid. ('27, c. 14, § 3)

7457-7. Same—When not applicable—This act shall not apply to any corporation the charter of which has been declared forfeited by the final judgment of any court of competent jurisdiction of this state, nor any corporation as to which there is any action or proceeding pending in any of the courts of this state, for the forfeiture of its charter, nor to any action or proceeding now pending in any of the courts of this state. ('27, c. 14, § 4)

7457-8. Same—Time of taking affect of law—This act shall taken effect and be in force from and after its passage. (Feb. 11, '27). ('27, c. 14, § 5)

7457-9. Corporate existence of co-operative associations renewed—That any co-operative association whose period of duration has expired less than twelve years before the passage of this act, and which has continued to carry on its business without renewal, may renew the period of its corporate existence for an additional term not to exceed thirty years from the

date of such expiration, with the same force and effect as if such renewal had been effected before its said period of duration expired; by taking the proceedings provided by law for the renewal of the corporate existence of such corporation in cases where such renewal is made before the end of its period of duration. Provided, however, that the proceedings to obtain such renewal shall be taken within six months after the passage of this act. And provided further, that this act shall not affect any pending litigation, nor to apply to any corporation whose charter has been declared forfeited by any court of competent jurisdiction in this state. ('27, c. 15, § 1)

7457-10. Same—Acts legalized—That when such steps are taken to renew the corporate existence of such co-operative association, such proceedings shall relate back to the date of the expiration of said original corporate period, and when said period is extended as provided by this act, any and all corporate acts and contracts done, performed, made and entered into after the expiration of said original period shall be and each is hereby declared to be legal and valid. ('27, c. 15, § 2)

7457-11. Corporate existence of corporations for pecuniary profit renewed—Any corporation heretofore organized for pecuniary profit under the laws of this state, whose period of duration has expired less than one year prior to the passage of this act, and through inadvertance or otherwise, the same has not been renewed, and such corporation has continued to transact its business, may renew its corporate existence from the date of the expiration of its period of duration for an additional period not exceeding the period of thirty years from and after the time of its expired period of duration, with the same force and effect as if renewed prior to the expiration of its said term of existence, by taking the same proceedings and by paying into the state treasury the same incorporation fees, if any, as now provided by law for the renewal of the corporate existence of such corporation in cases where such renewal is made before the end of its period of duration.

Provided, that such proceedings to obtain such extension shall be taken within six months after the passage of this acts and provided further, that this act shall not apply to any corporation the charter of which has been declared forfeited by the final judgment of any court of competent jurisdiction in this state. ('27, c. 117)

7457-12. Consolidation of certain corporations—Agreement for—Submission to stockholders—Filing for record with Secretary of State and Register of Deeds—Publication—Certified copy as evidence—Any two or more corporations, except corporations organized for the purpose of carrying on the business of a railroad, [producer or distributor of electric power], bank, savings bank, trust company, building and loan association or insurance company, may consolidate into a single corporation, which may be either one of said consolidating corporations or a new corporation created by such consolidation; the directors, or a majority of them of such corporations as desire to consolidate, may enter into an agreement signed by them and under the corporate seals of the respective corporations, prescribing the terms and conditions of the consolidation, the mode of carrying the same into effect, and stating such other facts as are deemed applicable among those necessary to be set out in a certificate of incorporation, as provided in Section 7443, General Statutes 1923, as well as the manner and basis of converting the shares of stock of each of the constituent

corporations into the shares of the consolidated corporation (whether into the same or a different number of shares of the consolidated corporation and whether par value or no par value stock) with such other details and provisions as are deemed necessary or desirable. The agreement shall further state the amount of capital stock with which the consolidated corporation will begin business, which may be any amount not less than the aggregate par value of shares of stock having par value to be distributed in place of previously issued and outstanding shares of stock of the constituent corporations. The agreement may provide for the distribution of cash, notes or bonds, in whole or in part, in lieu of stock to stockholders of the constituent corporations or any of them.

Said agreement shall be submitted to the stockholders of record of each corporation at a meeting thereof called separately for the purpose of taking the same into consideration; of the time, place and object of which meeting notice shall be mailed at least two weeks before the meeting to each stockholder of record whether entitled to vote or not, at his last known post-office address, as shown by the corporation's records, and at such meeting said agreement shall be considered and a vote by ballot, in person or by proxy, taken for the adoption or rejection of the same, and if the votes of stockholders of each corporation holding stock in such corporation entitling them to exercise at least nine-tenths of the voting power on a proposal to consolidate said corporation with another or such other proportion of the stockholders as may be prescribed by the certificate of incorporation for votes on said proposal shall be for the adoption of said agreement, then that fact shall be certified on said agreement by the secretary or assistant secretary of each corporation, under the seal thereof; and the agreement so adopted and certified shall be signed by the president or vice president and secretary or assistant secretary of each corporation under the corporate seal thereof and acknowledged by the president or vice president thereof before any officer authorized by the laws of this state to take acknowledgments of deeds to be the respective acts, deeds and agreements of such corporation; the agreement so certified and acknowledged shall be filed for record with the Secretary of State and with the Register of Deeds of the county of the principal place of business of the consolidated corporation as specified in the agreement and published, and proof of such publication filed with the Secretary of State, all as prescribed for a certificate of incorporation, and shall thence be taken and deemed to be the agreement and acts of consolidation of the constituent corporations, and the certificate of incorporation of the consolidated corporation; and a certified copy thereof shall be evidence of the performance of all antecedent acts and conditions necessary to such consolidation and of the existence of the consolidated corporation. ('27, c. 328, § 1; '27, c. 385, § 1)

Explanatory note—Act Apr. 20, 1927, Chap. 328, is identical in language with Act Apr. 22, 1927, Chap. 385, except that the earlier act contains in section 1, the words "producer or distributor of electric power." The later act omits these words.

7457-13. Same—Powers, rights, etc.—When the agreement is signed, acknowledged, filed for record and published as in the preceding section is required, the separate existence of the constituent corporations shall cease and they shall thereupon become a single corporation in accordance with said agreement, possessing all the rights, privileges, powers, franchises

and immunities as well of a public as of a private nature and being subject to all the liabilities and duties of each of such corporations so consolidated, and all and singular the rights, privileges, powers, franchises and immunities of each of said corporations and all property, real, personal, and mixed, and all debts owing on whatever account, and all other things in action of or belonging to each of such corporations shall be vested in the consolidated corporation, and all such property, rights, privileges, powers, franchises and immunities and all and every other interest shall be thereafter as effectually the property of the consolidated corporation as they were of the several and respective constituent corporations; provided that all rights of creditors and all liens upon the property of either of the constituent corporations shall be preserved unimpaired, limited in lien to the property affected by such lien at the time of the consolidation, and all debts, liabilities and duties of the respective constituent corporations shall thenceforth attach to the consolidated corporation and may be enforced against it to the same extent as if said debts, liabilities and duties had been incurred or contracted by it. ('27, c. 328, § 2; '27, c. 385, § 2)

7457-14. Same—Rights of dissenting stockholders—Determination of—If any stockholder entitled to vote in any corporation consolidating as aforesaid shall vote against the same and shall, at or prior to the taking of the vote, object thereto in writing, or if any stockholder of [or] record in any corporation consolidating as aforesaid, not entitled to vote thereon, shall at or prior to the taking of the vote object thereto in writing and if, in either case, such stockholder shall, within twenty days after the taking of such vote, demand in writing that the consolidated corporation make payment of the fair cash value of his stock, the consolidated corporation shall within thirty days after proof of publication of the consolidation agreement is filed with the Secretary of State as aforesaid pay to such objecting stockholder the fair cash value of his stock as of the day before such vote was taken; in case of disagreement as to such fair cash value any such stockholder or the consolidated corporation, within sixty days after proof of publication of the consolidation agreement has been filed as aforesaid and upon notice to the opposite party, may petition the district court of the judicial district in which the principal office of the consolidated corporation is established to and said court shall appoint three appraisers to appraise the value of such stock. The award of the appraisers (or a majority of them), if no written objection thereto is filed by either party within ten days after the same shall have been filed in court shall be final and conclusive; and if such objection is so filed the same shall be tried summarily by the court and judgment rendered thereon. If the amount determined in such proceeding is in excess of such amount as the consolidated corporation shall have offered to pay as the fair cash value of said stock, the court shall assess against the consolidated corporation the costs of said proceeding, including a reasonable attorney's fee to the stockholder and a reasonable fee to the appraisers, as it shall deem equitable; otherwise, such costs and fees to the appraisers shall be assessed one-half against the corporation and one-half against the stockholder. Any party shall have the right of appeal from said judgment of the court according to then existing laws provided said appeal to be taken within ten days after the entry of the judgment. Unless said consolidation is abandoned any such stockholder or stockholders on the making of said

demand in writing as aforesaid shall cease to be stockholders in the constituent corporation and shall have no rights with respect to such stock except the right to receive payment therefore as aforesaid, and upon payment of the agreed fair cash value of the stock or of the value of the stock under final judgment said stockholder or stockholders shall transfer their stock to the consolidated corporation; and in the event the consolidated corporation shall fail to pay the amount of said judgment within ten days after the same shall become final said judgment may be collected and enforced in the manner prescribed by law for the enforcement of judgments. Each stockholder in any of the constituent corporations at the time the consolidation becomes effective, entitled to vote, who does not vote against the consolidation and object thereto in writing as aforesaid, and each stockholder in each of the constituent corporations at the time the consolidation becomes effective, not entitled to vote, who does not object thereto in writing as aforesaid, shall cease to be a stockholder in such constituent corporation and shall be deemed to have assented to the consolidation and together with the stockholders voting in favor of the consolidation entitled to receive certificates of stock in the consolidated corporation or cash or notes or bonds, in the manner and on the terms specified in the agreement of consolidation. ('27, c. 328, § 3; '27, c. 385, § 3)

7457-15. Same—Pending actions—Any action or proceeding pending by or against any of the corporations consolidated may be prosecuted to judgment as if such consolidation had not taken place, or the consolidated corporation may be substituted in its place. ('27, c. 328, § 4; '27, c. 385, § 4)

7457-16. Same—Liabilities of corporations, stockholders and officers—Rights of creditors—The liability of corporations or the stockholders or officers thereof, or the rights or remedies of the creditors thereof, or of persons transacting business with such corporation, shall not in any way be lessened or impaired by the consolidation of two or more corporations under the provisions hereof. ('27, c. 328, § 5; '27, c. 385, § 5)

7457-17. Same—Capital stock of consolidated corporation—The capital stock of a consolidated corporation issued and represented by shares of stock shall be deemed to be the amount stated in the consolidation agreement as to the amount of capital stock with which the consolidated corporation will begin business, until such time as the corporation shall issue shares of stock in addition to those distributed to the stockholders of its constituent corporations upon the consolidation. Upon the issue of any such additional shares the capital stock issued and represented by shares of stock shall be deemed to be increased by the aggregate par value of all such additional shares of stock having par value and the aggregate amount of money or the actual value of the consideration, as fixed by the directors or otherwise, received by the corporation for the issuance of all such additional shares without par value. ('27, c. 328, § 6; '27, c. 385, § 6)

7457-18. Same—Filing fee—Upon filing any consolidation agreement as provided for in this act there shall be paid to the State Treasurer the same fees as required on the filing of a certificate of incorporation less the total amount of the fees that have been theretofore paid to the State Treasurer on account of filing the certificates of incorporation or renewals thereof and any amendments thereto increasing capital stock of all of the corporations parties to such consolidation agreement. ('27, c. 328, § 7; '27, c. 385, § 7)

7458. Election of board of directors and of vacancy on board—The business of every such corporation, except savings banks, shall be managed by a board of at least three directors, elected by ballot by and from the stockholders or members; provided, however, that when the certificate of incorporation or the by-laws so provides, a vacancy in the board of directors may be filled by the remaining directors; provided, however, that not more than one-third of the members of the board may be so filled in any one year; that of savings banks, by a board of at least seven trustees, residents of the county of its location, each of whom, before being authorized to act, shall file a written acceptance of the trust. A majority of the directors or trustees shall constitute a quorum for the transaction of business. (R. L. '05 § 2858; G. S. '13 § 6171, amended '19 c. 311 § 1)

Authority of directors must be exercised solely in pursuance of the company's chartered purposes and for the benefit of the stockholders (31-140, 149, 164+854. See 35-146, 151, 27+917; 35-163, 164, 27+922; 39-1, 2, 38+772). May act only collectively as a board and not individually (26-43, 1+261). Assignment for benefit of, creditors executed by corporation upon order of directors at meeting where not all were present (126-498, 148+461). Directors of a corporation represent the corporations only when acting in meeting as a board (129-354, 152+725). Director's duties being undefined, stockholders may select other agencies to manage corporate affairs (132-260, 156+268). President of a mercantile corporation is presumptively a director (141-256, 169+798).

The evidence was sufficient to show authority in the general manager of a corporation to transfer a cause of action for an injury to the property which he sold to respondent. 155-62, 196+811.

Trust deed could not be avoided because one of the bondholders was a director of the corporation, when it appeared that he had acted in good faith and had secured no undue advantage to himself. Minn. Loan & Trust Co. v. Peteler Car Co., 132 Minn. 277, 156 N. W. 255, followed and applied. 158-282, 197+262.

Presumed that director was stockholder 161-116, 201+308.

7459. Officers—Certain corporations legalized—Every domestic corporation, except when otherwise specially provided, shall have a president, secretary and treasurer, and may have one or more vice presidents and other officers, as its certificate of incorporation or by-laws may provide. The time and manner of their election and their respective duties shall be prescribed in the certificate of incorporation or in the by-laws. The president shall be a director or trustee. The secretary and treasurer may or may not be a director or trustee, as shall be provided in the certificate of incorporation, or in the by-laws. That all corporations heretofore organized under the laws of this state in which the matters in this section referred to are contained in the certificate of incorporation, are hereby legalized and in all things made valid. (R. L. § 2859, amended '09 c. 298 § 1) [6172]

A corporation legalized hereunder was changed from a de facto to a de jure corporation; but the law under which it was organized still controlled as to its powers (115-451, 133+69). Holders "in due course" of corporate notes changed with notice of the by-laws (134-449, 159+1078; 141-256, 169+979).

7460. Classification of managers—By so providing in its certificate of incorporation, any corporation may classify its directors or trustees in respect to the time for which they shall severally hold office, the several classes to be elected for different terms: Provided, that no class shall be elected for a term less than one, or more than five, years, and that the term of office of at least one class shall expire each year. (2860) [6173]

7461. Regulation as to voting—Unless otherwise provided in the certificate or by-laws, at every meeting each stockholder or member, resident or non-resident,

shall be entitled to one vote in person, or by proxy made within one year or other time specially limited by law, for each share or other lawful unit of representation held by him in his individual, corporate, or representative capacity, but no stock shall be voted on at any election within twenty days after its transfer on the books of the corporation. (2861) [6174]

Voting trust agreement respecting Delaware corporation did not violate this section. 10 F. (2d) 375.

7462. Cumulative voting—The certificate of incorporation, original or amended, of any corporation now or hereafter organized under the laws of this state, and thereunder issuing, or authorized to issue, shares of its capital stock may provide that at all elections of directors or managers each stockholder or member shall be entitled to as many votes as shall equal the number of his shares of stock multiplied by the number of directors or managers to be elected, and that he may cast all of such votes for a single director or manager, or may distribute them among the number to be voted for, or for any two or more of them, as he may see fit, which right, when exercised, shall be termed "cumulative voting." (2862) [6175]

7463. Transfer of stock—The delivery, by the rightful owner or by one by him intrusted therewith, to a bona fide purchaser or pledgee for value, of a certificate of stock, duly transferred in writing by the holder personally, or accompanied by his power of attorney authorizing such transfer, shall be sufficient to transfer title, but shall not affect the right of the corporation to pay any dividend thereon, or to treat the holder of record as the owner in fact, until such transfer has been recorded on its books, or a new certificate issued to the transferee, who, upon delivery of the former certificate to the treasurer, shall be entitled to receive such new one. Stock shall not be transferred upon the books of the corporation while any installment thereon remains delinquent, nor while any indebtedness of the record holder thereof to the corporation remains unpaid; nor shall any transfer deprive it of the right to maintain a personal action against any subscriber to its stock. A pledgee of stock transferred as collateral security shall be entitled to a new certificate, if the instrument of transfer substantially describe the debt or duty intended to be secured thereby. Such new certificate shall state on its face that it is held as collateral security, and the name of the pledgor, who alone shall be liable as a stockholder and entitled to vote thereon. (2863) [6176]

Transfers of stock are good between the parties without entry in the stock books (26-43, 1+261; 38-85, 35+577; 44-183, 187, 46+337; 50-36, 52+268; 68-121, 70+1079; 71-123, 73+713), and are good as against a subsequent attachment (50-36, 52+268). Provisions of section for benefit of corporations (26-43, 1+261; 44-183, 46+337; 61-307, 312, 63+721), and possibly of its creditors (61-307, 312, 63+721). Effect of a certificate of stock as evidence of ownership and right to transfer. How far binding on corporation (44-183, 46+337). What constitutes a stock book (65-324, 332, 68+50). Transfer held sufficient to render transferee liable to corporation for calls on stock (61-307, 63+721). Burden of proof to show transfer on stock books (63-403, 410, 65+661, 663). Equitable owner may compel transfer on books (68-121, 70+1079). Stock is personal property (60-362, 363, 62+396). Lien of corporation on stock (35-511, 29+200; 63-121, 70+1079; 71-38, 73+635; 71-123, 73+713). Creates lien on stock in favor of corporation, which may be foreclosed in equity (113-27, 128+1112). Where shares are transferred as collateral security, and they are so registered transferee is not liable as stockholder for debts of corporation (106-85, 113+55). The provision in 1870 c. 29, applicable to cooperative associations, that no person shall be allowed to become a shareholder except by consent of the managers, is valid, and is not repealed by this section (115-451, 133+69). A pledgee of stock appearing of record as general owner is estopped from denying stockholder's liability (127-346, 149+464). State bank has no lien on a stockholder's stock for his debt to bank (154-232,

191+418). Corporation is entitled to lien on stockholder's stock for debt (155-88, 192+356).

The statutory lien of a corporation on its own stock is not assignable by the corporation. 159-54, 198+297.

A surety, paying his principal's debt to a corporation, will not be subrogated to the corporation's lien on stock which the principal held, but which he had transferred to a third party, for a valuable consideration, before the surety became bound. 159-54, 198+297.

The prior transfer of the stock, although not made on the books of the corporation, vested the legal title in the transferee so as to make applicable the maxim, "Where there is equal equity, the law must prevail." 159-54, 198+297.

The plaintiff upon discovering the fraud tendered the corporate stock to the defendants and demanded a return of what they had received. They refused. Her stock purchase gave her corporate control. The corporation used the merchandise on hand in paying debts and in an effort to keep the corporate business alive. In the absence of a finding of waste, or of evidence requiring such finding, the tender was good and kept good and a sufficient restoration was proffered. 160-143, 199+566.

The lien attaches when the stockholder's indebtedness to the corporation and his ownership of stock concur. It cannot be impaired by an agreement between two officers of the corporation intended to protect one against loss in his personal dealings with the other. It may be enforced in a foreclosure proceeding. Payment of the stockholder's indebtedness by sureties liable therefor will not extinguish the debt. Equity will keep it alive for their benefit, will treat the payment as a purchase, and recognize their right to a cession of all the remedies the corporation possessed against the stockholder. 161-269, 201+424.

The complaint examined, and held not to state a cause of action based upon duress exercised by defendants by means of which plaintiffs were caused to make a sale of certain shares of stock to defendants. 162-47, 202+272.

The president of a corporation may buy stock of a stockholder without disclosing information affecting its value. In making such purchase he does not occupy a fiduciary relation. 162-430, 203+414.

A contract set forth in the opinion is construed as an executory contract for the sale and purchase of corporate stock and not a subscription for capital stock. 166-346, 207+737.

7464. Effect of transfer—Stock books—The transfer of shares is not valid, except as between the parties thereto, until it is regularly entered on the books of the company, so far as to show the names of the persons, by and to whom transferred, the number or other designation of the shares, and the date of the transfer; but such transfer shall not in any way exempt the person making such transfer from any liabilities of said corporation which were created prior to such transfer. The books of the company shall be so kept as to show intelligibly the original stockholders, their respective interests, the amount which has been paid in on their shares, and all transfers thereof, and such books, or a correct copy thereof, so far as the items mentioned in this section are concerned, shall be subject to the inspection of any person desiring the same. (2864) [6177]

A shareholder cannot affect his constitutional liability for prior debts of corporation by bona fide sale and transfer on books of corporation (96-488, 105+901. See 195 Fed. 153).

G. S. 1894 § 2599 cited (97-190, 106+900).

A transferee, who never was a registered stockholder, nor held himself out as stockholder, nor interfered with his transferors' liability, nor exercised a stockholder's privileges, nor participated in the management, held not liable under Const. art. 10 § 3 (186 Fed. 7, 108 C. C. A. 109). Stock certificate prima facie evidence of ownership (148-243, 181+351).

7465. Liability of stockholders—Every stockholder shall be personally liable for corporate debts in the following cases:

1. For all unpaid installments on stock owned by him or transferred for the purpose of defrauding creditors.

2. For failure by the corporation to comply substantially with the provisions as to organization and publicity.

3. For personally violating any of such provisions in the transaction of any corporate business as officer, director, or member, and for fraudulent or dishonest conduct in the discharge of any official duty. (2865) [6178]

1. **In general**—Nature of action defined (34-323, 329, 25+639). Liability of stockholders several and contractual (73-454, 76+254). Constitutional liability unenforceable under this section (61-373, 63+1024). Action by single creditor will lie against corporation and one or more stockholders (16-368, 327; 34-323, 25+639; 56-180, 57+468). Corporation not a necessary party when judgment has been obtained against it and execution returned unsatisfied (44-478, 47+155). Cited (70-292, 73+149. See 97-190, 106+900). (120-286, 139+606).

When a stockholder has the right to rescind his stock subscription for fraud, he is not prejudiced because instead of rescinding by his own act, he commences a suit for rescission. Such an action is a repudiation of the contract, and the rights of the parties are to be determined as of the date of its commencement. 156-487, 195+489.

The receiver of a corporation may sell notes representing unpaid stock subscriptions and pass to the purchaser whatever title he has. If in a given case the makers of such notes cannot rescind the same as against the receiver, they cannot do so as against purchaser from him. 156-487, 195+489.

A transfer on the books of a corporation is not necessary to pass title to the holder. 212+446.

In an action by a receiver to recover the par value of capital stock issued as fully paid for nothing of any value, held, that the stock was bonus stock, and liability rests upon fraud. 212+446.

The owner of all the stock issued by a corporation, who converts the entire assets of the corporation to his own use and permits it to lie dormant, holds such assets as trustee for the creditors of the corporation. 166-265, 207+620.

2. **Subd. 1**—Inapplicable to foreign corporations (64-326, 67+60). See 139+606. Claim provable in probate court (44-478, 47+155; 66-246, 68+1063). In absence of fraud liability on transferee of stock, not on transferrer (56-180, 57+468; 70-292, 73+149). When a receiver has been appointed for an insolvent company individual creditor cannot enforce liability (43-361, 51+119). Sale and transfer of stock does not operate as release of liability imposed by constitution for debts existing while stockholder (135-339, 160+1014).

3. **Subd. 2**—Refers to failure to comply with §§ 7444, 7445 (61-375, 63+1079). Stockholders of corporation de facto not chargeable as partners in absence of fraud (75-196, 77+822).

4. **Subd. 3**—To be applied cautiously (87-398, 401, 92+225). Injury must be peculiar to plaintiff. Damages to be measured by creditor's debt not his loss. Action may be at law and not for benefit of all creditors. Liability of superior officer for acts of inferior officer (61-375, 63+1079). Action not penal. Removable to county of defendant (66-213, 68+976). Cannot be joined with one to enforce constitutional liability (66-437, 69+324. See 68-95, 100, 70+869). What will render stockholder liable (61-375, 63+1079; 78-124, 80+853; 87-398, 92+225). (121-288, 144+161).

See note under preceding section.

7466. Property of stockholders levied on, when—The private property of a stockholder shall not be levied on for any liability specified in § 7465, unless both he and the corporation are duly served with process in the action, and the issue involving his individual liability is raised and determined therein; and individual property shall never be levied on until all corporate property which can be found has been exhausted. (2866) [6179]

Foreign corporation (97-190, 106+900).

166-265, 207+620, note under § 7465.

7467. Proceedings of officer levying—The officer holding an execution which may be so levied on private property shall first demand payment of the president, secretary, or other acting officer of the corporation, or who was one of its last acting officers; and, if he fails to forthwith satisfy the execution or point out

corporate property upon which it may be levied, the officer shall indorse thereon the fact of such demand and failure to pay, and then levy the same upon individual property of any stockholder impleaded and served as aforesaid. Such levy may be made to satisfy any balance due upon an execution, after levy upon corporate property, or part payment from corporate funds. (2867) [6180]

7468. Capital stock—Except as otherwise provided in this chapter, the capital of any stock corporation shall in no case be less than ten thousand dollars. It shall be divided into shares of not less than one dollar nor more than one hundred dollars each, but the capital and number of shares may be increased at any regular or specially called meeting of the stockholders. (2868) [6181]

Increase of stock at regular meeting. Right of stockholders to subscribe in proportion to original holdings (31-140, 16+854).

It is the general rule that where a corporation increases its capital stock, its stockholders are entitled to a reasonable opportunity to take their proportionate share of the new stock. 159-63, 198+409.

A stockholder may transfer his preference right. 159-63, 198+409.

Only an actual stockholder or his transferee possesses this preference right; the holder of a mere option or executory contract to purchase stock does not possess it. 159-63, 198+409.

7469. Capital stock of certain telephone companies—That the capital stock of corporations formed for the operation of telephone systems in or connecting towns or villages or [of] less than two thousand inhabitants shall in no case be less than five hundred dollars. ('09 c. 68 § 1) [6182]

7470. Record of stock—Reports—Dividends—In all stock corporations the directors shall cause accurate and complete records to be kept of all corporate proceedings and of all stock subscribed, transferred, canceled, or retired, and proper books, accounts, files, and records of all other business transacted. All such books and records shall at all reasonable times and for all proper purposes be open to the inspection of every stockholder. Its directors shall, when required, present to the stockholders written reports of its condition and business, and declare such dividends of the profits of the business as they deem advisable, but shall not thereby reduce the capital while there are outstanding liabilities. (2869) [6183]

Right of stockholder to inspect the books (110-133, 124+971; 135-479, 160+486).

There can be no preference or discrimination among the stockholders in the payment of dividends. 160-95, 199+897.

A corporation so discriminating against a stockholder is estopped from claiming the dividend to be illegal. 160-95, 199+897.

The declaration of a dividend creates a debt against the corporation in favor of the stockholder, which may be collected by suit. 160-95, 199+897.

The declaration and payment of dividends on its stock is prima facie evidence that a corporation has realized profits equal in amount to the dividends. 212+408.

7470-1. Corporate stock without nominal or par value—Classes of—Preferred stock—Any corporation of this state, heretofore or hereafter incorporated, except banks, savings banks, trust companies, building and loan associations and insurance companies, may create one or more classes of stock without any nominal or par value, with such preferences, voting powers, restrictions and qualifications thereon not inconsistent with law as shall be expressed in its certificate of incorporation or any amendment thereto. Stock without par value which is preferred as to dividends or as to its distributive share of the assets of the cor-

poration upon dissolution may be made subject to redemption at such times and prices as may be determined in such certificate of incorporation or amendment thereto. In the case of stock without par value which is preferred as to its distributive share of the assets of the corporation upon dissolution, the amount of such preference shall be stated in the certificate of incorporation or amendment thereto. ('25, c. 333, § 1)

Explanatory note—Section 12 of Laws 1925, c. 333, repeals all inconsistent acts and parts of acts.

7470-2. Same—Statement in certificate of incorporation or amendment thereto as to—In any case in which the par value of the shares of stock of a corporation shall be required to be stated in the certificate of incorporation or of any amendment thereto or in any other place, it shall be stated in respect to shares without par value that such shares are without par value, and when the amount of such stock authorized, issued or outstanding shall be required to be stated, the number of shares thereof authorized, issued or outstanding, as the case may be, shall be stated, and it shall also be stated that such shares are without par value. ('25, c. 333, § 2)

7470-3. Same—Stock certificates to show number of shares—Each stock certificate issued for shares without nominal or par value shall have plainly written or printed upon its face the number of shares which it represents, and no such certificate shall express any nominal or par value of such shares or express any rate of dividend to which it shall be entitled in terms of percentage of any par or other value. ('25, c. 333, § 3)

7470-4. Same—Value for tax purposes—For the purpose of the taxes or fees prescribed to be paid on filing of any certificate or other paper relating to corporations, and for the purpose of determining the minimum or maximum capital prescribed by law for stock corporations, but for no other purpose, such shares shall be taken to be of the value of \$100.00 each. ('25, c. 333, § 4)

7470-5. Same—Value fixed by directors—For the purpose of any rule of law or of any statutory provision relating to the amount of capital stock issued and represented by shares of stock, without par value, except as otherwise provided in this section, such amounts shall be taken to be the amount of money or the actual value of the consideration, as fixed by the Directors or otherwise, in accordance with law, as the case may be, for which such shares of stock shall have been issued. In any case in which stock having a par value shall have been issued with stock without par value for a specified consideration, in determining the amount of the capital stock issued and represented by shares of stock, without par value, the par value of such stock having a par value, shall first be deducted from the amount of the money or actual value of the consideration determined as aforesaid, and the excess thereof, if any, shall be taken to be the amount of capital stock represented by the shares of stock, without par value, so issued. ('25, c. 333, § 5)

7470-6. Same—Increase or reduction—The number of authorized shares of stock, without par value, may be increased or reduced in the manner and subject to the conditions provided in Section 7472 of the General Statutes of Minnesota 1923, and acts amendatory thereof and supplemental thereto. All other statutory provisions relating to stock having a par value, so far as the same may be legally, necessarily or practically applicable to, and not inconsistent with, the provisions

of this Act, shall apply to stock without par value. ('25, c. 333, § 6)

7470-7. Same—Par value stock changed to non par value stock—Any such corporation may change any of its stock, common or preferred, having a par value, to an equal, greater or less number of shares of stock having no par value, and, in connection therewith, may fix the amount of capital stock represented by such shares of stock without par value, and any such corporation may reduce its capital stock by reducing the number of shares of its stock, whether the same have par value or no par value, or by reducing the par value of shares which have a par value, or by reducing the amount of capital stock represented by shares with no par value, or by any and all of such methods. ('25, c. 333, § 7)

7470-8. Same—Certificate of incorporation or amendment thereto to provide for conversion of shares of any class into shares of another class—The Certificate of Incorporation or any amendment thereto of any such corporation may provide that shares of stock of any class shall be convertible into shares of stock of any other class upon such terms and conditions as may be therein stated, except that shares of stock without par value shall not be convertible into shares of stock having par value. ('25, c. 333, § 8)

7470-9. Same—Powers of directors as to issue—Subject to any limitations and restrictions set forth in the Certificate of Incorporation, any such corporation may, at any meeting called and held for that purpose, empower its directors to issue shares of its unissued, authorized capital stock without par value and may authorize its directors to fix the amount of money or the actual value of the consideration for which such stock shall be issued, provided the Certificate of Incorporation or any amendment thereto of any such corporation may empower the directors thereof to issue, from time to time, shares of such stock without par value for such consideration as the directors may deem advisable, subject to such limitations and restrictions as may be set forth therein. ('25, c. 333, § 9)

7470-10. Same—Computation of value—For the purpose of determining the amount of stock held or owned by any stockholder, shares without par value shall be computed at the value, at the time of issue, of the cash, property, services or expenses for which they were issued, but not including paid in surplus. ('25, c. 333, § 10)

7470-11. Same—Laws applicable—Except as otherwise provided herein, all laws applicable to corporations having shares of stock with par value shall apply to corporations issuing shares without par or face value. ('25, c. 333, § 11)

7471. Offices without and within the state—Every domestic corporation may establish offices and conduct business in any other state or country: Provided, that an office in charge of some person upon whom legal process affecting it may be served is always maintained in this state. (2870) [6184]

Necessity of office in this state (58-330, 59-1048).

7472. Amendments to certificates of incorporation—The certificate of incorporation of any corporation now or hereafter organized and existing under the laws of this state may be amended so as to change its corporate name, or so as to increase or decrease its capital stock, or so as to change the number and par value of the shares of its capital stock, or in respect of any other matter which an original certificate of a corporation of the same kind might lawfully have con-

tained, by the adoption of a resolution specifying the proposed amendment, at a regular meeting or at a special meeting called for that expressly stated purpose, in either of the following ways: (1) by majority vote of all its shares, if a stock corporation; or if not, (2) by a majority vote of its members; or, in either case (3) by a majority vote of its entire board of directors, trustees, or other managers within one year after having been thereto duly authorized by specific resolution duly adopted at such a meeting of stockholders or members, and by causing such resolution to be embraced in a certificate duly executed by its president and secretary, or other presiding and recording officers, under its corporate seal, and approved, filed, recorded, and published in the manner prescribed for the execution, approval, filing, recording, and publishing of a like original certificate.

As to a local building and loan association and corporation organized for the establishing, maintaining and operating of hospitals not for profit, the resolution to amend may be adopted as above provided, or by a two-thirds vote of the stockholders or members of the association attending the meeting in person or by proxy. (R. L. '05, § 2871; amended '13, c. 247, § 1; '17, c. 404, § 1; '23, c. 405, § 1; '27, c. 293) [6185]

210+29.

120-103, 139+135.

Corporation stipulation that stock subscription shall be void on its failure to move its principal place of business (145-208, 176+485). Rescinding resolution improperly adopted at adjourned meeting subject to ratification at general meeting (153-486, 190+889).

7473. Corporations not organized for pecuniary profit may increase or decrease number of trustees—That any corporation other than those for pecuniary profit heretofore or hereafter incorporated by virtue of any law of this state, may by resolution of its board of trustees, adopted at any regular or called meeting, by a majority vote thereof, increase or decrease the number of trustees of such corporation and provide for their election, and may also in such resolution provide for the number of trustees of said corporation which shall constitute a quorum; and a copy of such resolution subscribed and sworn to by the president and secretary of such corporation, shall be recorded in the office of the register of deeds of the county where the corporation is located and in the office of the secretary of state. ('17 c. 155 § 1)

G. S. '13 § 6186 identical except clause: "and may also in such resolution provide for the number of trustees of said corporation which shall constitute a quorum."

7474. Increase of railway stock, how authorized—Before any railroad corporation shall increase its capital stock, it shall apply to the railroad and warehouse commission in writing, setting forth the amount of the proposed increase and the purpose for which it is desired. The commission shall thereupon fix a time and place for hearing the application, and require such notice thereof to be given as they deem reasonable. Upon the hearing the commission shall make findings of the facts established in reference to the proposed increase, and, if they allow it, shall prescribe the manner in which and the terms upon which the same shall be made. If they disapprove such increase, the reasons therefor shall be stated in their next annual report. No capital stock shall be issued by any railway corporation until the full amount thereof has been paid to the corporation in money, labor, or materials actually used in the construction of its road, nor shall the capital stock of any such corporation be increased

except by special authority of such railroad and warehouse commission. (2872) [6187]

This section does not violate Const. Minn. art. 1 § 11 or Const. U. S. art. 1 § 10. It does violate Const. art. 3 § 1 (100-445, 111+289).

7475. Fees—Before filing any certificate of incorporation, renewal or amendment increasing the capital stock, there shall be paid to the state treasurer a fee of fifty dollars for the first fifty thousand dollars, or any fraction thereof, of the capital stock of an original or renewed corporation, and five dollars for each additional ten thousand dollars or fraction thereof. But nothing in this section shall apply to a corporation formed and operated solely for raising or improving live stock, or for the cultivation or improving of farms, gardens, or agricultural lands, growing beets or for canning fruits or vegetables, or to any telephone company connecting towns or villages of less than two thousand inhabitants, or to local building and loan associations, and nothing in this section shall apply to corporations organized for the purpose of conducting a chautauqua system of education, or to purely social corporations organized for maintaining curling clubs or associations, but the capital stock of any such last named corporation shall not exceed \$5,000.00. (R. L. § 2873, amended '07 c. 329; '09 c. 202 § 1) [6188]

Not applicable to corporation without capital stock and not for pecuniary profit (118-319, 136+870).

7476. State certificate of incorporation—Whenever any such corporation, whose incorporation has been completed, shall make application therefor to the secretary of state and pay the prescribed fee, said secretary shall execute, record, and issue a certificate, specifying the names of its incorporators, its nature and purpose, the amount of its capital stock, the fact of its compliance with all prescribed statutory provisions, and that it is duly organized and exists as a corporation under the name and of the kind specified, with the powers, rights, and privileges, and subject to the limitations and restrictions pertaining thereto. Such certificate shall be prima facie evidence of the facts stated therein. (2874) [6189]

7477. First and subsequent meetings, how called—The first meeting of every corporation, except as otherwise prescribed in its certificate of incorporation, shall be called upon not less than three weeks' prior personal or published notice, signed by one of the incorporators, to the others, and to each subscriber, if any, to its capital stock, specifying the time, place, and purpose thereof. Unless otherwise provided in the certificate of incorporation or corporate by-laws, every annual meeting shall be called and held at its principal place of business upon three weeks' published notice thereof signed by its secretary, and no business transacted at any annual meeting not so called and held shall be effectual. The manner of calling and holding all meetings may be prescribed by its by-laws. (2875) [6190]

7478. Meeting called by members—Whenever, by reason of the death, absence, or other legal disability of the officers of any corporation, there is no person authorized to call or preside at a legal meeting thereof, any three or more of its stockholders or members may call a meeting by giving to all the others the notice prescribed in § 7477, and designating therein some person to preside at such meeting until a chairman and clerk are chosen, who shall act during the absence of those authorized to act in one or both of those capacities, respectively. Any business may be done at such meeting which could be lawfully transacted at a regular meeting. (2876) [6191]

7479. Irregular meetings, how validated—Whenever all the stockholders or members of a corporation are present or duly represented at any meeting, however called or notified, and duly execute a written assent thereto on the records thereof, the business transacted at such meeting shall be as valid as if it had been legally called. (2877) [6192]

7480. Capital stock—How classified and issued—Save as otherwise specially limited or provided, no corporation shall issue any share of stock for a less amount to be actually paid in than the par value of those first issued. But any railroad or exclusively manufacturing corporation may issue and dispose of such an amount of special, preferred, or full-paid stock as may be deemed advisable by its board of directors. Any corporation whose original or amended certificate of incorporation so provides may issue and dispose of special and preferred and common stock, or special or preferred and common stock; and any corporation, without change of its certificate of incorporation, when its board of directors are so authorized by a majority vote of its stockholders at its annual meeting, or at a meeting called for that specifically stated purpose, may issue its capital stock, part special, part preferred, and part common, or part common and part either special or preferred, and give such preference as it deems best to such special or preferred stock, or to such special and preferred stock. (2878) [6193]

Agreement that two or more shares be issued for each share paid for void (67-224, 69+894). Corporation cannot issue its stock as fully paid up and sell the same for less than par and on such terms as its directors deem advisable (70-321, 73+189). See 65-28, 67+652). Unauthorized stock not void so as to exempt holders from liability (67-267, 276, 69+904). Payment for stock by note and mortgage as device to evade statute. Corporation bound (71-123, 73+713). See 71-38, 73+635). Shares issued and sold as full-paid, for less than par value, are not void; but agreement that they shall be treated as paid in full is voidable as to creditors of corporation (107-152, 119+951). Under G. S. 1894 §§ 2803, 2807, 3415, amendment of articles of manufacturing corporation adopted by majority, authorizing agreement whereby lenders of money should receive preferred stock possessing sole voting power and control until repayment in full, held valid, though all stockholders did not assent (132 Fed. 945).

Recovery of difference of actual value turned in and face value of stock received (124-281, 144+953). Issuance of stock illegal except upon payment of face value (126-201, 148+49). "Preferred stock" (137-8, 162+677). Prohibition against issuance of stock for less actually paid than par (153-189, 190+889).

7481. Stock certificates, to whom issued—Upon payment in full of all amounts due any corporation from any person upon any certificate for its stock, and the surrender of all receipts, if any, issued therefor, he shall be furnished with a certificate, under the corporate seal, stating the number of shares and class of its stock owned by him, signed by its president or vice-president, and by its secretary, under its corporate seal. Said certificate shall be prima facie evidence of such ownership. (2879) [6194]

123-208, 143+353; 148-243, 181+351.

7482. New certificate—Every corporation, on the surrender of a worn-out or defaced certificate, shall issue a new one therefor, without indemnity. Whenever an affidavit stating the loss or destruction of any certificate of its stock shall be presented to the directors of any corporation, they shall cause a new one to be issued to the owner thereof, but may, in their discretion, first require a satisfactory bond for not more than double the market value of the stock, to indemnify the corporation against any claim arising from the issue of such new certificate. On giving such bond the corporation shall issue such new certificate. If the

evidence is clear that said certificate has been lost or destroyed, and has not been heard of for seven years, it shall be the duty of said corporation to issue a new certificate without indemnity, and the secretary or other proper officer shall make a report thereof in his register of shareholders, and said corporation shall be released from all damages in reference thereto. (2880) [6195]

Action against foreign corporation for duplicate certificate (59-332, 61+324).

7483. Executors, etc., may vote—Not personally liable—Every executor, administrator, guardian, or trustee shall represent the shares of stock in his hands, for all purposes, at all meetings of the corporation, but while acting in good faith shall not be personally liable; but the estates and funds in his hands shall be liable in like manner and to the same extent as the beneficiary or other represented party or interest would be if competent to act and holding the stock in their own names, respectively. (2881) [6196]

Executor held not personally liable on stock (75-138, 77+788).

The enforcement of the constitutional liability of a decedent stockholder in an insolvent domestic corporation is properly made in the probate court, whenever an order of assessment has been made before the final settlement and distribution of the decedent's estate. 158-106, 196+939.

7484. Dissolution of corporations—Whenever any corporation except a bank of discount and deposit or a savings bank has determined, upon the affirmative vote of a majority of each class of its stock entitled to vote, or of its members if without capital stock, that it is for the interest of all persons concerned therein that it be dissolved, it may cause appropriate action to be taken to effect such dissolution. (2882) [6197]

44-460, 47+151; 56-171, 176, 57+463; 56-180, 183, 57+468; 60-284, 62+332; 66-378, 384, 69+144; 66-441, 445, 69+331; 73-319, 324, 76+59; 74-98, 102, 76+1024; 85-302, 307, 88+977; 99-475, 109+1116. Dissolution at instance of minority stockholders (134-148, 158+820).

7485. Continuance for three years to close affairs—Every corporation whose existence terminates by limitation, forfeiture, or otherwise, shall nevertheless continue for three years thereafter, for the purpose of prosecuting and defending actions, closing its affairs, disposing of its property, and dividing its capital, but for no other purpose. (2883) [6198]

38-115, 35+725; 44-460, 463, 47+151; 56-180, 184, 57+468; 60-284, 289, 62+332; 83-314, 320, 86+409; 58 Fed. 651; 101-36, 119+492.

7486. Extension of time for closing affairs of certain dissolved corporations—Where any corporation other than a corporation having the power of eminent domain, which has been dissolved more than three years by expiration or forfeiture of its charter, decree of court, by statutory proceedings, or otherwise, did not fully close its affairs and convey all its property within the three-year limit prescribed by General Statutes, 1913, Section 6198 [7485], and where any such corporation has, claims, or appears to have or claim any interest in or to any property, the time so limited is nevertheless extended for two years from and after the passage of this act for the purpose of closing up the affairs of any such corporation, conveying its property, and for the purpose of authorizing and permitting service of process in actions at law or equity, or otherwise, including actions under Chapter 65, General Statutes, 1913, and for service of process by publication according to law against such corpora-

tions, and in order that any such corporations may prosecute and defend actions and be served with process therein. ('23 c. 240 § 1)

Explanatory note—For G. S. 1913, c. 65, see §§ 8247 to 8329, herein.

7487. Conveyances, etc., legalized—Any and all conveyances of property by any such corporations and any and all proceedings, and actions heretofore, commenced or had, including actions under Chapter 65, General Statutes, 1913, including service of process against any such corporations after the expiration of the three-year limit prescribed by General Statutes, 1913, Section 6198 [7486], are hereby legalized and made of the same force and effect as though the same had been done within said three-year limit. Provided, that in any said proceedings or actions, the defendant therein shall have three months from and after the passage of this act to appear in said proceedings and defend therein. ('23 c. 240 § 2)

Explanatory note—For G. S. 1913, c. 65, see note to § 7486, herein.

Bracket [7486] should be [7485].

CURATIVE ACTS.

Time is extended in case of certain corporations other than those having the power of eminent domain, which have been dissolved more than 3 years, in all things in substance as specifically prescribed, except as to period of extension, in '23 c. 240 § 1, and prior to, during and up to and within the limitation of each several extension beyond the limit provided by [7484] all corporate matters, contracts, conveyances, etc., are legalized and validated; reservation being made as to vested rights and then pending litigation, in the several following instances:

'05 c. 128 § 1, extension of 1 year from April 11, 1905.

'13 c. 26 § 1, extension of 1 year from February 27, 1913.

'15 c. 161 § 1, extension of 2 years from April 16, 1915.

'17 c. 153 § 1, extension of 1 year from April 2, 1917.

'17 c. 447, extension of 2 years from April 20, 1917.

'19 c. 126, affects co-operative associations other than those with power of eminent domain and extension is 2 years from March 28, 1919.

See other similar notes at end of "Co-operative Associations" subdivision.

7488. Reorganization of certain corporations legalized—That in any case where any corporation, created under title 2, chapter 34, Statutes of Minnesota 1894, shall have, within the period of its corporate existence, paid all its liabilities and distributed its assets among its stockholders and cancelled all of its capital stock and thereafter through or under transfers or attempted transfers of its articles of incorporation a reorganization or attempted reorganization under such original articles of incorporation was effected or attempted, that any such reorganization or attempted reorganization is hereby declared to be legal and the said corporation so reorganized under such articles of incorporation is hereby vested with and is entitled to exercise and enjoy all the rights, privileges and franchises which belonged to or were vested in such corporation upon its original incorporation, subject, however, to any modification or amendment in the general laws of this state affecting corporations organized under said title 2, chapter 34, Statutes of Minnesota, 1894.

Provided, that the provisions of this act shall not apply to any action or proceeding now pending in any of the courts of this state. ('13 c. 492 § 1) [6201]

7489. Diversion of corporate property—The diversion of corporate property to other objects than those specified in the recorded and published certificate, where injury to any individual results therefrom, the declaring of dividends when the profits are insufficient to pay the same or when the funds remaining will not meet the corporate liabilities, or any intentional deception of the public or individuals in relation to its

means or liabilities, are felonies, and every person guilty of any one of them shall be punished by a fine of not more than five thousand dollars, or by imprisonment in the state prison for not more than three years, or by both. (2884) [6202]

64-463, 465, 67+355.

212+408, note under § 7470.

Section does not apply to payment of money to or for stockholder where corporation subsequently ratifies it. 14 F. (2d) 762.

7490. False statements—Every officer, agent, or employe of any corporation, who shall knowingly and wilfully subscribe or make any false statement, false report, or false entry in or upon any of the books, papers, or other documents thereof, or in behalf thereof, or shall knowingly and wilfully subscribe or exhibit any false paper, book, or document with intent to deceive any person or officer authorized to examine the financial condition of any such corporation, or shall knowingly and wilfully subscribe or make any false report whatsoever shall be guilty of a felony, and be punished by imprisonment in the state prison not less than one nor more than ten years. (2885) [6203]

148-243, 181+351.

7491. Existing corporation, how to reorganize—Any existing corporation whose certificate or charter does not conform to the requirements of this chapter may cause to be executed by its president and secretary a new or amended certificate in compliance herewith, and, upon proceeding in all respects as is prescribed in the case of an original certificate of a corporation of the same kind, shall become entitled to all rights, benefits, and privileges conferred, and subject to all the requirements imposed, upon like corporations by the provisions of this subdivision, save that its rights in respect to property acquired or investments made prior to the taking effect of these Revised Laws shall be determined and governed by the laws in force at the date of such acquisition and investment, respectively. (2886) [6204]

7492. Examination by attorney general, etc.—Whenever required by the governor, the attorney general shall examine into the affairs and condition of any corporation, and report such examination in writing, together with a detailed statement of facts found, to the governor, who shall lay the same before the legislature, and the legislature, or either branch thereof, may also examine into the affairs and condition of any such corporation. The attorney general, or either branch of the legislature through a committee appointed by it for that purpose, may administer oaths to and examine the directors and officers of any corporation on oath in relation to its affairs and condition, may examine the vaults, books, papers, and documents belonging thereto or pertaining to its affairs and conditions, and compel the production of all keys, books, papers, and documents. (2887) [6205]

FOREIGN CORPORATIONS

7493. Affidavit to state street number address of agent—Provision for change of agent—Service on Secretary of State—Every foreign corporation for pecuniary profit, before it shall be authorized or permitted to transact any business in this state, or to continue business herein if already established, or to acquire, hold or dispose of property within this state, or to sue or maintain any action at law or otherwise in any courts in this state, shall, in writing, appoint an agent duly authorized to accept service of process and upon whom service of process may be had in

any action to which such corporation shall be a party, and service upon such agent shall be due and personal service upon such corporation. Such agent shall reside in this state and maintain an office or place of business therein, and such appointment shall set forth the residence of said agent and the street number address of the office or place of business of said agent. An authenticated copy of the appointment of such agent shall be filed with the Secretary of State and a certified copy thereof shall be prima facie evidence of the appointment and authority of such agent.

In case the place of residence or the office or place of business of said agent shall be changed after the filing of said appointment, an affidavit of such agent, setting forth his place of residence and street number address of his office or place of business, shall be filed in the office of the Secretary of State.

Provided, that if said agent cannot be found in the county of his residence, as shown by the return of the sheriff of such county upon such process, then the same may be served by leaving with the Secretary of State two copies thereof, and thereupon the Secretary of State shall immediately mail one such copy to the corporation at its address as stated in the records of the Secretary of State, and one copy to the agent of such corporation at his address as set forth in the appointment of such agent or the affidavit herein provided. (R. L. '05 § 2888; G. S. '13 § 6206, amended '17 c. 49 § 1)

84-497, 88+10; 85-121, 88+441; 88-456, 93+520; 156 Fed. 545, 86 C. C. A. 435; 111-48, 126+410; 112-469, 128+570; 113-16, 128+1014; 113-405, 129+850; 118-1, 136+291.

Non-compliance with laws of state as relating to contract for sale and shipment within state (136-39, 161+216). Business constituted interstate commerce (93-356, 101+616; 133-356, 165+124). Capacity of foreign corporation holding lands in this state. Foreign corporation shipping advertising matter into state (148-143, 181+205). Non-compliance of statute as amended '17 c. 49 and status of mortgage and notes thereunder (152-143, 188+162). Note by foreign corporation in hands of bona fide purchaser (150-316, 185+374). Foreign corporation cannot evade jurisdiction of state courts by revoking authority of resident agent and withdrawing business activities (195+271).

165-95, 205+634.

A foreign corporation avoids the jurisdiction of the state courts by revoking the authority of the agent and withdrawing its business activities from the state 156-431, 195+271.

Foreign corporation selling goods through agent in state and shipping them from out of the state was not "doing business" in the state. Transaction was interstate commerce. 157-285, 196+263.

7494. Licenses required—Filing copy of articles of incorporation and statements—False statements a felony—Filing fees and charges—Issue and duration of license—Existing licenses—Withdrawal by corporation—No foreign corporation for pecuniary profit shall hereafter do business in this state until and unless licensed so to do as hereinafter provided. Before any foreign corporation for pecuniary profit shall be licensed to do business in this state, such corporation shall file with the secretary of state a true copy of its articles of incorporation, if any, and if none, then of the corresponding documents constituting its charter, duly authenticated by the proper authority. Such corporation shall also file therewith a sworn statement made by its president, secretary, treasurer, or corresponding officer, showing the proportionate amount of capital stock of said corporation invested in this state, if any; and, if none, then the proportionate amount of such capital stock which said corporation contemplates or estimates will be invested in this state prior to July 1st of the next odd-numbered calendar year thereafter. On said date and on July 1st of each

succeeding odd-numbered calendar year, such corporation shall file a like sworn statement showing any, and all increases in the proportionate amount of its capital stock invested in this state since the last preceding statement was filed, and truly reflecting the total amount so invested up to the date of said statement; provided, however, that no such sworn statement need be filed for any such biennial period within which no increase in such proportion of its capital stock invested in this state has accrued. Any person who files or causes to be filed any such sworn statement knowing the same to be false in whole or in part shall be guilty of a felony, which shall be deemed to have been committed at the time and place such false statement was filed in this state. At the time of filing copy of its articles of incorporation, etc., as hereinabove required, such foreign corporation shall pay into the state treasury, a sum of money equal to the filing fees and charges required by law or be paid by a like domestic corporation for pecuniary profit having an authorized capital stock equal to the total proportionate amount of capital stock of said foreign corporation invested or to be invested in this state as shown by its said first sworn statement. At the time of filing each subsequent sworn statement as hereinabove required, such foreign corporation shall also pay into the state treasury a sum of money equal to the filing fees and charges required by law to be paid by a like domestic corporation when increasing its capital stock in an amount equal to the increase by said foreign corporation of the proportion of its capital stock invested in this state, as shown by its said last sworn statement so filed. Upon compliance by any such foreign corporation with the foregoing provisions of law, the secretary of state shall issue to it a certificate licensing and authorizing it to do business in this state. Said license shall remain effective as long as such foreign corporation continues thereafter periodically to file sworn statements and make payment of additional fees, as hereinabove required; but no longer in any event than thirty years from the date of issuance thereof, nor after the expiration of the charter of such foreign corporation. Subject to the provisions hereof, any such license may be renewed at the end of thirty years upon re-filing by such foreign corporation of its articles of incorporation, etc., and the payment of the required fees of like domestic corporations are then permitted by law to renew their corporate existence.

All licenses heretofore granted to foreign corporations for pecuniary profit which are now in effect, are hereby continued, but such corporation shall make the biennial filings required by this act, and shall pay fees on any excess of the proportion of its capital stock invested in this state over the authorized capital for which it may be licensed in this state at the time of the passage of this act. The state of Minnesota may bring a civil action in any court of competent jurisdiction in this state or elsewhere for the recovery of fees due or claimed by the state to be due hereunder from any foreign corporation; and without prejudice to any criminal prosecution or proceeding arising under any provisions of the laws of this state relating to foreign corporations.

Any foreign corporation licensed to do business in this state may withdraw therefrom upon filing with the secretary of state a duly certified copy of a resolution duly passed by unanimous vote of its board of directors or corresponding board, or by majority vote of its stockholders, directing such withdrawal and irrevocably appointing the secretary of State of Min-

nesota and his successors in authority the agent of said withdrawing corporation for service of legal process and other notices upon it in any action or proceeding of any nature or kind arising out of or involving anything done or omitted by said foreign corporation in this state while licensed to do business here. Such appointment of said agent shall continue in force as long as any cause of action, right, or claim against said corporation survives in this state; and service upon such agent shall be deemed personal service upon the foreign corporation so appointing him. (2889) [6207] (Amended '27, c. 171)

156 Fed. 545, 86 C. C. A. 435; 111-48, 126+410; 112-469, 128+570; 113-16, 128+1014; 118-1, 136+291. Service of legal process (131-335, 155+103; 132-20, 155+765). Gradation of fees (133-175, 161+216; 136-39, 180+705).

156-431, 195+271; 157-285, 196+263, note under § 7493.

Does not require that a foreign corporation, which has been authorized to do business in this state and which has paid a fee on the proportion of its capital then employed in this state, shall pay a further fee upon increasing the proportion of its original capital so employed. State ex rel. v. Schmah, 133 Minn. 175, 157 N. W. 1082, adhered to. 160-378, 200+296.

The statute requires such a corporation to pay a fee upon the proportion used in this state of any increase of its capital stock. 160-378, 200+296.

A provision in a contract of sale of a Boss System brick burning equipment, by which the seller, a foreign corporation, agreed to furnish an engineer to superintend the installation and construction and to instruct as to operation, is relevant and appropriate to the interstate sale, and hence does not justify the courts of this state in refusing to enforce payment of the purchase price on the theory that the seller was doing a local business in violation of section 7494 G. S. 1923. 209+876.

7495. Penalties—Exceptions—Every such foreign corporation for pecuniary profit, now doing business in or which may hereafter do business in this state, which shall neglect or fail to comply with the foregoing conditions shall be subject to a fine of one thousand dollars to be recovered before any court of competent jurisdiction; and the secretary of state, as often as he may be advised that corporations are doing business in contravention hereof shall report such fact to the county attorney of the county in which the business of such corporation is located, and such attorney, as soon thereafter as practicable, shall institute proceedings to recover the fine aforesaid, which fine shall be paid into the treasury; and no corporation which shall fail to comply with the foregoing provisions shall maintain any suit or action, either legal or equitable, in any of the courts of this state, upon any demand, whether arising out of contract or tort. Provided, that nothing herein shall be construed as releasing any such corporation from complying with any provision of the existing laws of this state; and provided further, that these provisions shall not apply to corporations engaged in an exclusively manufacturing business in this state; nor to drummers or traveling salesmen soliciting business in this state for corporations which are entirely non-resident; nor to any corporation engaged only in the business of loaning money or investing in securities in this state, including all business incidentally growing out of the same and the handling of such real estate and other property as may be taken by foreclosure or otherwise in liquidation of such loans or securities; provided further, that none of the provisions hereof shall apply to or in any manner affect corporations organized for the purpose of raising and improving live stock, cultivating and improving farms or garden or horticultural lands, or for growing sugar beets, or any corporation formed for the purpose of canning fruits or vegetables. And, provided further, that these requirements shall not apply to any foreign corporation heretofore licensed

or authorized to transact business in this state and which has paid to the state treasurer the fees on capital stock required of domestic corporations under Laws 1889, c. 225, or to any corporation whose sole business in this state is the transportation of freight or passengers, or both, by water. (2890) [6208]

Explanatory note—For Laws 1889, c. 225, see G. S. 1894, §§ 3391, 3392. See § 7475, herein.

Constitutional (84-497, 88+19; 85-121, 123, 88+441). Inapplicable to contracts made prior to law (89-256, 94+723). Inapplicable to corporations not doing business here but simply attempting to collect in our courts claims against our citizens (90-358, 96+919; 94-472, 103+507). Cannot be applied so as to interfere with interstate commerce. Foreign corporation having warehouse here for convenience in distributing goods sold by its traveling agents held not to be doing business here within statute (93-356, 101+616). Single isolated transaction, such as the sale and delivery of machine to person within state, is not doing business within the state (100-112, 110+367). Foreign corporation, which ships goods to distributing warehouse within state, whence they are forwarded under special contract, on order of corporation, to parties within state, who receive the goods under contracts inconsistent with sale, and consistent only with agency, held doing business in state (101-432, 112+989. See, also, 101-53, 111+733). Where goods are shipped from without state to fill order given therein, and sale is without state, transaction is not within statute (113-16, 128+1014). Otherwise if sale is within state (112-469, 128+570). Question whether foreign corporation is "doing business" in state, so as to be subject to service of process under R. L. § 4109, is distinct from question whether it is "doing business" in state within R. L. §§ 2388-2390 (118-1, 136+291). Foreign corporation doing business here without first complying with statute cannot maintain action in our courts on contract or demand growing out of such unlawful business (85-121, 88+441; 89-256, 94+723; 93-201, 100+101). Compliance after making contract or commencement of action ineffectual (85-121, 88+441). Proviso exempting certain corporations to be strictly construed (93-201, 205, 100+1101). Presumption of compliance with statute. Non-compliance matter of defense and need not be pleaded by corporation (93-432, 101+796; 94-472, 103+507; 113-405, 129+850. See 108-89, 121+427). In action by foreign corporation against its agent to recover money received by him for its use, he is not estopped to show that it has not complied (101-432, 112+989). Failure to comply with section 2388 [7493] does not protect agent of foreign corporation who unlawfully appropriates its money or property (113-405, 129+850). Jurisdiction over foreign corporation voluntarily appearing and submitting to jurisdiction (111-48, 126+410). Does not affect power or duty of national courts to determine controversies in bankruptcy proceedings or other controversies of which constitution and acts of congress gave them jurisdiction (156 Fed. 545, 86 C. C. A. 435).

128-171, 150+790; 132-20, 155+765; 138-356, 165+125; 150-316, 185+374; 195+271.

156-431, 195+271; 157-285, 196+263, note under § 7493.

7496. Certain procedures of foreign corporations legalized—In all cases where any corporation has heretofore filed a duly authenticated copy of its charter or articles of incorporation with the secretary of state, and also filed with such officer a duly authenticated appointment of an agent in this state authorized to accept service of process and upon whom service of process might be had in any action to which said foreign corporation might be a party and has paid the fees required by law, and the secretary of state has issued his certificate authorizing such foreign corporation to do business in this state and to sue and maintain actions therein, then in every such case such foreign corporation is hereby authorized to do business in this state and to sue and maintain actions and to own property therein for the period set forth in the certificate of the secretary of state, notwithstanding the failure of any such corporation to maintain a public office or place in this state for the transaction of its business; provided, that this act shall not affect any action or proceeding now pending in any of the courts of this state. ('17 c. 430 § 1)

7497. Contracts and conveyances of certain corporations legalized—That any and all contracts with, and

any and all conveyances to or from, any foreign corporation, having no capital stock, and now or hereafter doing business in this state, which has heretofore at any time complied with, or attempted to comply with, chapters sixty-nine and seventy of General Laws of the state of Minnesota for the year eighteen hundred and ninety-nine, now known as sections 2888, 2889 and 2890, Revised Laws of Minnesota, 1905 [7493-7495], relating to the admission of foreign corporations to do business in this state and requiring certain fees to be paid by such corporation, and has paid into the state treasury the minimum fee of fifty dollars, provided for by said law, and has obtained from the secretary of state a certificate that said corporation has complied with the laws in this state in this respect, and is authorized to do business in this state, are hereby legalized, confirmed, and validated, and all such contracts are hereby made valid, and enforceable by or against any such corporation, as fully and to the same extent as if such corporation had immediately in all things complied with said law, upon the passage thereof. Provided, that at the time of making of such contract or conveyance such foreign corporation was licensed by a department of the state of Minnesota to transact business therein. ('07 c. 427 § 1) [6209]

7498. Same—Pending actions—This act shall not apply to any action now pending in the state of Minnesota, wherein the validity of such contracts or conveyances are called in question, on account of the failure of any such corporation sooner to comply with such law. ('07 c. 427 § 2) [6210]

7499. Contracts and conveyances of certain corporations legalized—That any and all contracts with, and any and all conveyances to or from, any foreign corporation for pecuniary profit, and now or hereafter doing business in this state, which has heretofore at any time complied with, or attempted to comply with chapters sixty-nine (69) and seventy (70) of General Laws of the state of Minnesota for the year eighteen hundred ninety-nine (1899), now known as sections 2888, 2889 and 2890, Revised Laws of Minnesota, 1905 [7493-7495], relating to the admission of foreign corporations for pecuniary profit to do business in this state and requiring certain fees to be paid by such corporations, and has paid into the state treasury the fees provided for by said law, and has obtained from the secretary of state a certificate that said corporation has complied with the laws of this state in this respect, and is authorized to do business in this state, are hereby legalized, confirmed and validated and all such contracts are hereby made valid and enforceable by or against any such corporation, as fully and to the same extent as if such corporation had in all things complied with said law before transacting any business in the state of Minnesota. ('11 c. 158 § 1) [6211]

7500. Same—Pending actions—This act shall not apply to any action now pending in the state of Minnesota wherein the validity of such contracts or conveyances are called in question on account of the failure of any such corporation sooner to comply with such law. ('11 c. 158 § 2) [6212]

7501. Validation of certain contracts made by foreign corporations doing business in Minnesota—That any and all contracts with, and any and all conveyances to or from any foreign corporation heretofore and now doing the business of a general building and loan association in this state, which has heretofore at any time complied with, or attempted to comply with chapters sixty-nine (69) and seventy (70) of General Laws of the State of Minnesota for the year 1899, now known as sections 2888, 2889 and 2890, Re-

vised Laws of the State of Minnesota, 1905, relating to the admission of foreign corporations for pecuniary profit to do business in this state and requiring certain fees to be paid by such corporations, and has paid into the state treasury the fees provided for by said law, and has obtained from the secretary of state a certificate that said corporation has complied with the laws of this state in this respect, or has complied in whole or in part, or attempted to comply with the provisions of section 3060 of the Revised Laws of Minnesota, 1905, as the same originally existed, or as the same was amended by chapter 24 of the General Laws of Minnesota for the year 1909, or has deposited securities with the superintendent of banks in the amount of not less than one hundred thousand (\$100,000.00) dollars, under the provisions of said section 3060, and which corporation heretofore has made, or which shall hereafter within 60 days after the taking effect of this act make the deposit of securities with the superintendent of banks as now required by the laws of the State of Minnesota, and within the said time shall comply with all the provisions of the laws of the said state relative to such foreign corporations transacting such business in the State of Minnesota, are hereby legalized, confirmed and validated, and all such contracts are hereby made valid and enforceable by or against any such corporation, as fully and to the same extent as if such corporation had in all things complied with the laws of said state before transacting any of said business in said state. ('15 c. 92 § 1)

132-19. 155+765.

Explanatory note—For R. L. '05, § 3060, as amended by Laws 1909, c. 24, see § 7760, herein.

PUBLIC SERVICE CORPORATIONS

RAILROAD CORPORATIONS

7502. Right of way over state lands—A right of way over any swamp, school, internal improvement, agricultural college, or university lands, now belonging or which may hereafter belong to the state, is hereby granted to any railroad company which has located and constructed, or shall hereafter locate and construct, its line of railway over any such lands, to the extent of a strip of land one hundred feet in width; that is fifty feet on each side of the center line of its main track; and there is further granted such additional width, not exceeding a total width in the entire grant of two hundred feet at points where it is thought that such additional width is necessary for the construction or operation of any such railroad; provided, that where such additional width may be found necessary for station purposes, such right of way may have a total width of not more than three hundred feet for a distance of not more than three thousand feet. (R. L. § 2891, amended '09 c. 494 § 1) [6213]

G. S. 1894 § 2670 cited (97-36. 105+1129).

1878 c. 73 held not in conflict with Const. art. 8 § 2, requiring school lands to be sold at public sale (112-46, 127+431).

7503. Plat—Payment—Conveyance—Reservation of minerals—New right of way—Whenever any railroad company desiring a right of way over any such state lands or additional grounds thereon, shall furnish to the governor a plat showing the line of its road, right of way, or additional grounds, necessary for the construction or operation of any such railroad or necessary for station purposes, with the number of acres required, and shall pay to the state treasurer the appraised value per acre of such ground, and when not

appraised, such rate per acre as the governor and state auditor shall determine to be a fair appraisal, and not less than that fixed by the state constitution, the governor shall execute and deliver to such railroad company an instrument in writing conveying the use of such rights of way, and the use of such lands, so long as the same shall be occupied for railroad purposes. And every such deed shall reserve to the state of Minnesota all the ore and minerals of whatever nature in the strip so granted, with the right to mine and remove the same, but such ore or other minerals shall not be mined or removed in such a manner as to interfere with or endanger in any manner the railway or other structures for which said strip of land was granted or the legitimate use of said land for railway purposes: Provided, that if merchantable ore or other minerals shall be discovered in said strip and it shall become necessary in order to mine and remove such ore or other minerals to destroy the support thereof or interfere with the operation of the railway thereon, the state of Minnesota or its successor in interest shall grant to such railway company a new right-of-way for its railway upon a line to be located by the railway company, and approved by the governor and state auditor and thereupon such railway company shall within six months remove its railway or other structures from said strip of land to said new right-of-way and shall quitclaim and convey the said strip of land to the state of Minnesota or its successor in interest. And every grant of such new right-of-way shall contain a similar condition with reference to the shifting of the railway track and to the rights of the state of Minnesota or its successor in interest to mine and remove the ore or other minerals from such new right-of-way. No title in any land shall vest in any railroad company under this or the preceding section until the governor shall deliver to the railroad company the deed in this section provided for. (R. L. § 2892, amended '09 c. 494 § 1) [6214]

Compliance with conditions prerequisite to acquisition of rights (112-46, 127+431).
124-271, 144+960.

7504. Selection of swamp lands—Any railroad company to whom swamp lands have been granted by the state, which by the terms of the grant is required to make selection and receive patents therefor, shall make selections and file lists with the state auditor within one year from the date when the right to select shall accrue, but not thereafter. Upon the approval of said lists by said auditor, the governor shall immediately issue deeds for the same; but if there be no swamp lands certified or patented from which such selection can be made, then such company shall have one year from and after the date of the certifying of such lands within which to make its selection. If such railway company shall neglect or refuse to make selection within the time hereinbefore specified, the right to select shall terminate, and the said auditor shall forthwith select and set apart from the swamp lands of the state lying nearest such company's railway an amount of land sufficient to complete the grant, and no other or different lands than such as have been selected by the company within the time specified or set apart by the auditor shall be certified or conveyed to such company. (2893) [6215]

7505. Sales, etc., of public land by municipal corporations—The governing board of any municipal corporation may grant, sell, convey, or lease any public grounds within its corporate limits to any railway corporation, subject to all the rights of the original proprietors of such grounds. (2894) [6216]

63-330, 351, 63+267, 65+649, 68+458.

7506. Purchase, lease or control of one road by another—Any domestic or foreign railroad corporation may lease, purchase, or in any other way become the owner of, or may control or hold the stock of any other railroad company, whenever their respective roads can be lawfully connected and operated together, so as to constitute one continuous line, with or without branches. Whenever such lease or purchase shall be made by a foreign corporation it shall not be effectual for any purpose until such corporation shall have first complied with all the laws of this state pertaining to such corporation, when it shall have the same rights, powers, privileges, and be subject to the same duties, obligations and liabilities in respect to the railroad so leased or purchased, as pertained to such road. The corporation so leasing or purchasing shall be subject to any law of this state now in force or hereafter enacted relating to the taxation of the properties so leased or purchased. But no railroad corporation shall consolidate with, lease or purchase, or in any way become the owner or have the control of any other railroad corporation, or any of the stock or franchises thereof, which owns or controls a railroad parallel to and competing with the railroad owned or controlled by such leasing or purchasing corporation; nor shall any railroad corporation purchase or in any way become the owner of any property owned and operated by any other railroad corporation as a part of a railroad which is parallel and competing to and with the railroad of such purchasing company; and the question whether any of such railroads are parallel or competing lines shall, at the election of the party complaining, be decided by a jury as in civil cases. Any railroad corporation which shall consolidate with, lease or purchase, or in any other way become the owner or acquire the control of any other railroad corporation, or any of the stock or franchises thereof, which owns or controls a railroad parallel and competing with the railroad owned or controlled by such leasing or purchasing railroad corporation, shall be guilty of a misdemeanor, and, upon conviction thereof, shall be punished by a fine of not less than one thousand nor more than twenty thousand dollars; and any officer of such leasing or purchasing company who shall aid, abet or participate in any violation of this section shall be guilty of a misdemeanor. (R. L. § 2895, amended '07 c. 395 § 1) [6217]

68-542, 547, 71+706; 123 Fed. 692; 161 U. S. 646, 16 Sup. Ct. 785, 40 L. Ed. 838; 193 U. S. 197, 24 Sup. Ct. 436, 48 L. Ed. 679; 194 U. S. 57, 24 Sup. Ct. 598, 48 L. Ed. 870; 101-132, 112+13; 139-477, 167+295.

7506-1. Liability of railroad corporation leasing to foreign corporation—That any railroad corporation organized under the laws of this state, which heretofore may have leased, or which hereafter may lease, its tracks and right of way to a foreign railroad corporation shall, nevertheless, continue liable to any person injured in his person or property in consequence of the negligent operation over such right of way of the trains of such leasing company to the same extent as if operated by such Minnesota corporation as the owner thereof. ('25, c. 87, § 1)

7507. Consolidation forbidden—The consolidation of the capital stock, lines, property, franchises, control, or the power of control, of two or more parallel and competing lines of railroad in the hands of any corporation, trustee, agent, or representative of any corporation, wheresoever situated, is hereby prohibited and made unlawful. (2896) [6218]

7508. Consolidation permitted—Any domestic or foreign railroad corporation, upon such terms as may

be agreed upon, may consolidate its stock and franchises with any other railroad corporation whose lines of railroad now or hereafter constructed within or without this state can be lawfully connected and operated with such first-named corporation, so as to constitute one continuous main line, with or without branches, and admit of the passage of trains over them without break or interruption, and may become one corporation under any name selected by them. A certificate stating the terms of consolidation shall be approved by each corporation by a vote, in person or by proxy, of the stockholders owning a majority of the stock, at a regular annual meeting thereof, or at a special meeting called for that purpose by not less than thirty days' personal notice, or by published notice at its principal place of business, stating the object of such meeting, and by mailing a copy of such notice to each stockholder whose residence is known, or by the written consent of a majority of such stockholders attached to the certificate. Before such consolidation shall be effective for any purpose, a copy of the certificate thereof, and of the record of such approval or consent, and a list of the stockholders of each corporation and the number of shares held by each, duly certified by its president and secretary under its corporate seal, shall be filed for record in the office of the secretary of state of this state and of each state or territory under whose laws the corporations so consolidating were organized. (2897) [6219]

194 U. S. 57, 24 Sup. Ct. 598, 48 L. Ed. 870; 101-132, 112+13.

7509. Rights and duties of consolidated corporation—Upon the filing for record of said copies, such corporations shall become merged in the new corporation, which shall thereafter be known by the name agreed upon. Within this state, such corporation shall succeed to all the rights, powers, franchises, contracts, privileges, and immunities, and be subject to the same duties, liabilities, and obligations in all respects as were granted to or imposed upon the original corporations; but all rights of creditors and all liens upon the property of either of the consolidating corporations shall be preserved unimpaired, and all the debts, liabilities, and duties of either shall thenceforth attach to the new corporation, and be enforceable to the same extent and in the same manner as if such debts, liabilities, and duties had been originally incurred by it. Such corporation shall be subject to the laws of this state and the jurisdiction of its courts in the same manner and to the same extent as domestic corporations. (2898) [6220]

36-85, 30+432; 36-481, 32+556.

7510. Method of combination—Any domestic railroad company authorized by law to consolidate its property and franchises, or any portion thereof, with the property and franchises or any portion thereof of another railroad company, or to purchase the railroad property and franchises, or any part thereof, of another railroad company, may effect such consolidation or purchase by acquiring the stock, bonds, or other securities of such other railroad company, and for the special purpose of acquiring the same may create, issue, or dispose of its own stock, bonds, or other securities, in addition to the amounts it is otherwise authorized to issue, to an amount not exceeding the actual value of the stock or bonds of such other company acquired by it. It may also create, issue, and dispose of such amounts of stock for any other authorized purpose as the board of directors may find necessary. Prior to the issue of any stock under the pro-

visions of this section, the corporation shall file with the secretary of state a duly authenticated resolution of its board of directors, stating the number and par value of the shares so to be issued and the purpose of such issue. But no railroad company shall sell its capital stock for less than its full par value in money, property, work, or services, and no such company shall issue or sell any stock or do any act prohibited by any other law relating to such matters. (2899) [6221]

Cited (100-445, 111+289).

7511. Aid in construction of connecting roads—Any domestic railroad corporation, heretofore or hereafter organized, may aid any other railroad corporation in the construction of its road, by subscription to its capital stock or otherwise, for the purpose of forming a connection with such other railroad; or any railroad corporation may lease or purchase any part or all of a railroad constructed by any other corporation whose lines of road are continuous or connected but not parallel with its own, upon any agreed terms and conditions; or any two or more railroad corporations whose lines are so connected may enter into any arrangement for their common benefit, consistent with and calculated to promote the objects of, their organization; but no such aid shall be furnished, nor any purchase, lease, or other arrangement perfected, until a meeting of the stockholders of each such corporation shall have been had, and the holders of at least two-thirds of the stock represented at such meeting, in person or by proxy, and voting thereat, shall have assented thereto. (2900) [6222]

28-443, 10+594; 36-246, 265, 30+316; 68-542, 548, 71+706.

7512. Bonds—Funding indebtedness—Any domestic railroad corporation may borrow money, execute its bonds or promissory notes therefor, and secure payment thereof by mortgage or pledge of its property or income, or both; but the amount of its indebtedness or liability, exclusive of that so secured, shall not at any one time exceed two-thirds of the amount of its capital or the amount specified in its certificate of incorporation. Such corporation may issue bonds and promissory notes in lieu and in payment of outstanding bonds, bearing such rate of interest as may be agreed upon, and, if the certificate of incorporation so provides, one or more persons selected by the holders of such bonds may be admitted into the board of directors upon such terms and conditions and under such regulations as may be agreed upon between the corporation and its bondholders or their trustees. (2901) [6223]

Mortgages (44-115, 46+301; 52-246, 53+1151; 56-188, 57+471).

7513. Mortgages and deeds of trust—Telegraph and telephone companies may mortgage or execute deeds of trust of the whole or any part of their property and franchises to secure money borrowed by them for the construction and equipment of their lines and properties, and for other corporate purposes, and issue their corporate bonds in sums of not less than five hundred dollars, secured by such mortgages or deeds, and, if payable to bearer, negotiable by delivery, bearing interest at a rate not exceeding six per cent. per annum, and convertible into stock or not as may be deemed expedient, may sell them at such prices as they deem proper; and if said bonds shall be sold below their normal or par value they shall be valid and binding on the company, and no plea of usury shall be put in by, or allowed to, said company in any suit thereon. Such mortgages or trust deeds may by their terms include and cover after acquired property, real and personal, and shall be as valid and effectual for

that purpose as if the property was in possession at the time of the execution thereof. (2902) [6224]

Applicable though transaction takes form of loan rather than sale of bonds (116-4, 133+91).

7514. Rolling stock, etc.—Lien for purchase money—In any contract for the purchase and sale of railroad equipment or rolling stock, whether deliverable at once or at future stated times, by the terms of which the purchase money is to be paid wholly or partly after such delivery, it may be agreed that the title to such property shall not pass to the vendee until the purchase price shall have been fully paid, or that the vendor shall have and retain a lien thereon for the unpaid purchase money, notwithstanding delivery thereof; Provided, that the term of credit for purchase money, shall not exceed fifteen years from the execution of the contract. (R. L. '05 § 2903, G. S. '13 § 6225, amended '21 c. 206 § 1)

7515. Lease—Conditional sale—In any contract for the leasing of railroad equipment or rolling stock, the parties may stipulate for a conditional sale thereof at the termination of such lease, that the rentals, as paid or when paid in full, may be treated and applied as purchase money, and that the title to such property shall not vest in the lessee or vendee until the purchase money shall have been fully paid, subject, however, to the proviso in § 7514. (2904) [6226]

7516. Contracts—Requisites of validity—Every such contract shall be acknowledged by the vendee or lessee as in the case of a conveyance of land, and shall be filed for record with the secretary of state and with the register of deeds of the county in which, at the time of its execution, the principal office or place of business of the vendee or lessee is situated in this state. Each locomotive, engine or car so sold or leased shall have the name of the vendor or lessor plainly marked on each side, or be otherwise so marked as to indicate the ownership thereof. And upon compliance with this section, such contract shall be valid and effectual, both in law and equity, against all purchasers and creditors. (2905) [6227]

7517. Record—Notice—Such mortgages or deeds of trust shall be recorded with the secretary of state, and also in the office of the register of deeds of each county through which the telegraph or telephone line runs, or in which it may hold land. To secure the right of all parties interested under such deeds and mortgages so executed and recorded, the personal property belonging or appertaining thereto shall be deemed a part of the line and the record of such deeds and mortgages shall be notice of the rights of all parties in the real and personal property covered thereby. (2906) [6228]

7518. Preferred and special stock and income certificates—Any domestic railroad corporation may create, issue, and dispose of special and preferred stock and income certificates to such amounts, in such form, and for such purposes as may be determined by its board of directors, with the assent of the holders of at least three-fourths in amount of its then outstanding common capital stock. But no increase of any special or preferred stock or of any income certificates shall be made without the assent thereto of the holders of three-fourths in amount of the special or preferred stock or income certificates to be affected by such issue, as the case may be. (2907) [6229]

7519. Holders of bonds, etc., may vote for directors, when—Such corporation, in such manner, under such regulations, and to such extent as may be prescribed by its board of directors and assented to by the hold-

ers of at least two-thirds in amount of its then outstanding common capital stock, may confer upon the holders of bonds or other obligations issued to evidence or secure its indebtedness, or upon the holders of its special or preferred stock, or of its income certificates, or of any particular class thereof, or upon all or any of them, the right to vote for directors, and to choose from the stockholders, special, preferred, or common, or from the holders of the bonds or income certificates of such corporation, one or more members of its board of directors. (2908) [6230]

7520. Agreement as to control of property—Any domestic railroad corporation may enter into an agreement with the holders of its bonds or other obligations issued to evidence or secure its indebtedness, or with the holders of any particular class of such bonds or obligations, or with the holders of its special or preferred stock or income certificates, or with any particular class or portion thereof, in relation to the sale, lease, or control of the property and franchises of such corporation which shall receive the assent of the holders of two-thirds in amount of each class of special, preferred, and common stock and then outstanding income certificates. At a meeting of the holders of such stocks and certificates called for that purpose in the same manner as other stockholders' meetings are called; but a certificate of such assent, under the corporate seal, and a certified copy of the agreement so assented to, shall be filed with the secretary of state within thirty days after the meeting at which such assent was given, and a copy of the agreement shall be printed upon, or attached to, the class of bonds or other obligations, or the special or preferred stock or income certificates with the holders of which such agreement has been made, and also printed upon or attached to the certificates of common stock. (2909) [6231]

7521. Subscription books—Commencement of work—The incorporators named in any certificate of incorporation, at their first annual meeting, or at a time designated by them before such meeting, may open books for subscription to the capital stock of such corporation, under such regulations as they shall prescribe; and when sufficient stock has been subscribed to justify the same, and the first instalments thereon paid in, the incorporators or directors may order work commenced, and they shall thereby become invested with all the rights, privileges, and franchises conferred by this chapter. (2910) [6232]

7522. Unpaid and fictitious stock—No domestic railroad corporation or consolidated corporation existing in whole or in part within this state, nor any officer thereof, shall sell, dispose of or pledge any shares of its capital stock, or issue any certificates of shares thereof until such shares have been paid in full, or issue any stock or bonds except for money, labor or property, to the par value of the stock and the market value of the bonds, not, however, less than ninety per cent of the par value thereof, actually received and applied to the purpose for which the corporation was organized; and all fictitious stock, dividends, increase of capital stock or indebtedness shall be void. Every officer who shall issue, sell, pledge or dispose of any shares or certificates of shares of capital stock contrary to the provisions hereof shall be guilty of a felony. (R. L. § 2911, amended '13 c. 384 § 1) [6233]

R. L. §§ 2912, 2913, were repealed by 1907 c. 231.
53 Fed. 889; 73 Fed. 914.

Cited (100-445, 111+289).

7523. May exercise franchise elsewhere—Every domestic railroad corporation may exercise all its

rights, franchises, and privileges in any other state or country, subject to the laws thereof, and may also exercise therein any other or additional powers applicable to such corporation under the laws of such state or country. (2914) [6234]

7524. Connection with other roads—Any railroad company, in the location of its line of road, may cross, intersect, join, or unite its railroad with the constructed railroad of any other company at any point on its route. If the corporations cannot agree upon the amount of compensation to be paid therefor, the same shall be ascertained and determined by condemnation proceedings under the right of eminent domain, as in other cases; and, in case such companies shall disagree as to the place and manner of such crossing or connection, the district court, at the time of appointing commissioners in such condemnation proceedings, upon application of either party, shall prescribe the location and manner in which such crossing or connection shall be made, so as to effect the purpose of the petitioner and do the least injury to the owner. When such order is made, the petitioner, upon filing with the clerk a bond in such amount as shall be accepted by the owner, or as shall, upon reasonable notice, be approved by the judge of said court, conditioned to prosecute said petition with diligence and to pay the owner the amount adjudged by the court in such proceeding and to abide the order of such court in the matter, may immediately proceed to make and operate such crossing or connection. (2915) [6235]

Right not absolute. Court to determine whether crossing is required by public necessity (37-164, 33-701). Court not limited to precise location set forth in petition (35-461, 29-60). Place and manner of crossing must cause least possible injury consistent with accomplishment of purpose (39-162, 39-65). Power of court to impose conditions (50-300, 52-657). Effect of appeal (35-461, 29-60). Applies to railroad corporations organized under former statutes, as well as those organized under the Revised Laws (101-132, 112-13).

7525. Right of way over public ways—When, in the location of any railroad, it becomes necessary to occupy any road, street, alley, or other public way, the municipal corporation or other public authority owning or having charge thereof and the railroad company may agree upon the manner, terms, and conditions in and upon which the same may be used or occupied, or such corporation may appropriate so much of the same as shall be necessary by condemnation proceedings under the right of eminent domain. (2916) [6236]

Inapplicable to private railroad (56-334, 57-1054), or street railway (83-275, 278, 86-103). Limited to tracks. Does not extend to depots, freight houses, etc. (63-330, 63-267, 65-649, 68-458). Occupancy of street by railroad does not relieve city of care thereof (32-308, 20-320). Nature of right acquired by railroad (22-149). Consent of city does not relieve railroad of obligations to abutting owners (17-215, 188; 18-260, 236). A railroad company has right to acquire by condemnation under this section, right of way over streets and alleys of cities and villages, and over private property within such limits, without securing franchise from municipal authorities (101-132, 112-13. See also, 108-407, 122-486; 113-459, 130-18; 101-345, 112-1142). Does not require such franchise from or agreement with city or village as to manner, terms, and conditions upon which street may be crossed, whether condemnation necessary, quare. Injunction against crossing before condemnation begun denied (117-14, 134-302).

Cited (115-51, 131-859).

Applies to crossing of a street (131-185, 154-949; 136-366, 162-453). Right of electric traction company to lay tracks and operate across city streets (194-328).

Where a municipal corporation and an electric traction company have agreed upon the terms by which streets may be crossed by an electric railway, and the use of steam as a motive power is prohibited by such contract, a purchaser of the electric traction company's line takes it subject to such prohibition. 156-164, 194-327.

Such a contract does not limit the power of the purchasing company, if it has such power, to acquire by condemnation the right to use the street crossings for a steam railway. 156-164, 194-327.

City of International Falls v. M. D. & W. Ry. Co., 117 Minn. 14, 134 N. W. 302, distinguished. 156-164, 194-327.

7526. Power to acquire property—Every foreign and domestic railroad corporation shall have power to acquire, by purchase or condemnation, all necessary roadways, spur and side tracks, rights of way, depot grounds, yards, grounds for gravel pits, machine shops, warehouses, elevators, depots, station houses, and all other structures necessary or convenient for the use, operation, or enjoyment of the road, and may make with any other railroad company, such arrangements for the use of any portion of its tracks and roadbeds as it may deem necessary. (R. L. § 2917, amended '13 c. 502 § 1) [6237]

The act in terms amends R. L. § 2916 "to read as follows: Section 2917," etc., and the title of the act is "to amend section 2917," etc.

37-164, 168, 33-701; 67-339, 346, 69-1085; 76-302, 79-304, 121-233, 141-170.

7527. Extensions and branches—Any railroad corporation may extend its road from any point named in its charter or certificate of incorporation, or may build branch railroads from any point on its own line, or on the line of any other railroad connecting or to be connected with its road, whenever it shall have secured the use of such other road between such points and the connection with its own road by lease or agreement for a term not less than ten years from its date. Before making such extension or building such branch road, such corporation shall designate the route thereof by resolution of its board of directors or as provided in § 7531. Such resolution shall be entered in its records, and a duly certified copy thereof and a plat or map signed and verified by its president and secretary shall be filed for record with the secretary of state; whereupon such corporation shall have and exercise all the rights, powers, franchises, and privileges over such extension or branch that it has over its main line. Nothing herein shall apply to street railways. (2918) [6238]

81-265, 83-1086, 84-101, 742.

7528. Contractor's bond—Liability of company—Any railway contracting for the construction or repair of its road shall take from the contractor a sufficient bond, conditioned that he will pay all laborers, mechanics, and other persons performing any part of the work, all just debts due them or incurred in carrying on such work, which bond or a certified copy thereof shall be filed with the register of deeds of each county where any part of the work is done. All persons to whom such contractor shall be indebted for any such work, and such railway company in case it shall have paid any debt, claim, or demand as herein-after provided, may bring an action on such bond for the price of such work or amount of such payment. If the contractor giving the bond shall fail to pay any indebtedness for such work or services, or if any railway company shall fail to take and file such bond, such company shall be liable for the amount of all such debts incurred by such contractor under or pursuant to such contract: Provided, such laborers, mechanics, or other persons shall give the notice and take the action prescribed in § 7529. (2919) [6239]

34-32, 33, 24-289.

7529. Liability of company after notice—Whenever a contractor or subcontractor employed by a railway

company in the construction or repair of its railway shall be indebted to any laborer or mechanic for services rendered, such railway company shall be liable to pay such laborer or mechanic the amount of such debt, provided he shall have given notice of his claim to such company within sixty days after said debt accrued. Such notice shall be in writing, specify the particular nature and amount of the debt, claim, or demand, and be delivered to the secretary or chief engineer of such company, or to the engineer in charge of the construction or repairing of that portion of the road upon which such labor was performed, either personally or by leaving the same at the office or usual place of business of such secretary or engineer; but no action shall be maintained against any railway company under the foregoing provisions unless the same shall be commenced within sixty days after the service of notice as aforesaid. (2920) [6240]

7530. Alteration of route—The board of directors of any railroad corporation, by a vote of two-thirds of their whole number, may alter the route of their road, or any part of the road, or any extension or branch thereof as constructed, whenever they are of opinion that the line can be improved thereby; but no railroad, whether in the hands of the original incorporators or of any other person or corporation, shall be diverted from any county, town, city, or village which in its corporate capacity shall have extended aid to such road, without the consent of such municipality. Such consent shall be evidenced by a vote of two-thirds of the legal voters of such municipality, at an election held for that purpose. No such alteration shall be made in any city or village after the road shall have been constructed therein, unless the same shall have been sanctioned by a vote of two-thirds of the governing body of such municipality. Before making any such alteration, unless the route is designated as provided in § 7531, the board of directors shall designate the route thereof by a resolution entered in its records and filed for record with the secretary of state. (2921) [6241]

67-339, 69+1085; 81-265, 269, 83+1086, 84+101, 742.

7531. Alterations and extensions of route—Branches—Any railroad company existing in whole or in part under the laws of this state, or authorized to own and operate a railroad in this state, may by an affirmative vote of at least two-thirds of its directors empower its president and chief engineer to designate the route of any extension or branch of its road, and of any alteration of its line or route, but before making or building any such extension or branch or alteration, or condemning any land therefor, the president and chief engineer of the railroad company shall in writing, by map, courses and distances, or otherwise, designate the route thereof and, after having certified to the correctness thereof, file such writing so certified with the secretary of the railroad company, who shall record the same in a book to be by him kept for such purposes, and the railroad company shall obtain a copy of that record, duly certified by its president and secretary and attested by its seal, and file such certified copy with the secretary of state, to be by him recorded, and thereupon such corporation shall have the same right to make any and all such alterations and to build any and all such extensions and branches as it would have if it had been authorized so to do by its charter or articles of incorporation. (2922) [6242]

7532. To keep general office in state—Every domestic railroad corporation shall establish an office at some

point within this state, on the line of its road, to be known as its general office, and keep in such office some officer or agent, upon whom service of all legal process against such company may be made, and who shall be authorized to hear and determine all questions relating to its current business arising within the state. There shall be kept in such office at all times the original minutes of the board of directors or executive committee, and a list of its stockholders, or a true copy thereof, corrected from time to time so as to show all transfers and changes. (2923) [6243]

37-375, 377, 34+593.

7533. Land grant railroad companies—Every land grant railroad company shall keep at some public office within this state the originals, or copies, of all books, papers, and records of every description relating to lands sold, contracted, incumbered, or owned by it, so as to show clearly all material matters connected with its grant and the management of its lands. Such books and papers shall be open to inspection by the state auditor, railroad and warehouse commissioners, or any agent appointed by the governor for that purpose. Every such corporation, failing to comply with the provisions of this section and § 7532, shall forfeit to the state five hundred dollars for each month it shall fail to maintain the offices specified therein or either of them. Proceedings to recover such forfeiture shall be prosecuted by the attorney general in the name of the state. (2924) [6244]

7534. Annual meetings, how called—Who may vote—Every domestic railroad corporation shall annually call and hold a meeting of its stockholders, for the purpose of electing directors and transacting any other business which may lawfully be done thereat. Such meeting shall be called and held in the manner and at the time, if any, prescribed in its charter or certificate of incorporation or in its by-laws. Whenever no time is fixed in the charter, certificate, by-laws, or by statute, such meeting shall be held on the first Monday of June at a place on the line of its road. Four weeks' published notice of the time and place of meeting shall be given by the secretary in the county of its principal place of business. If for any reason the secretary shall fail to give such notice, the same may be given by any director. The stockholders attending such meeting may organize and by a majority vote of those present elect directors and transact all other business proper to be done at its annual meeting. At any meeting of stockholders they may vote in person or by proxy issued within the preceding year, and any person or class of persons having by law a right to vote for directors shall be deemed stockholders for the purposes of this section. (2925) [6245]

Effect of meeting out of state (45-454, 49+197).

7535. Right of eminent domain in certain cases—Any public service corporation shall have the right to obtain by condemnation, under the right of eminent domain, any land, or any right over, through, or across the same, or any easement therein, necessary for the convenient prosecution of its enterprise; and any telegraph or telephone company may in the same manner acquire the right to construct its lines over, along, and upon the right of way and lands of any railway company upon making just compensation therefor to such company; but such right shall at all times be subject to the right of the railway company to use its right of way and lands for railway purposes, and said telegraph or telephone lines shall be so located, con-

structed, and maintained as not to interfere with the usual operation of such railway. (2926) [6246]

First clause a repetition. Right of telephone company to acquire rights in railroad right of way (76-334, 79+315).

Cited and applied (101-132, 112+13; 101-197, 112+395). Cited 113-459, 130+18.

Diversion of waters from navigable streams from one basin into another (127-23, 143+561). Taking side track as a public use (135-323, 160+866)

Partition of land. 210+850.

7536. Use of public roads—Restriction—Any water power, telegraph, telephone, pneumatic tube, or * * * light, heat or power company may use public roads for the purpose of constructing, using, operating, and maintaining lines, subways, canals, or conduits, for their business, but such lines shall be so located as in no way to interfere with the safety and convenience of ordinary travel along or over the same; and in the construction and maintenance of such line, subway, canal or conduit the company shall be subject to all reasonable regulations imposed by the governing body of any town, village or city in which such public road may be. Nothing herein shall be construed to grant to any person any rights for the maintenance of a telegraph, telephone, pneumatic tube, light, heat or power system within the corporate limits of any city or village until such person shall have obtained the right to maintain such system within such city or village, or for a period beyond that for which the right to operate such system is granted by such city or village. (R. L. § 2927, amended '11 c. 57 § 1) [6247]

Right of city to require telephone wires to be placed under ground (81-140, 83+527, 86+69). Telephone line in highway not an additional servitude (60-539, 63+111). Vested rights acquired by company (81-140, 83+527, 86+69; 84-486, 87+1127; 154 Fed. 386). A corporation organized to supply electric service to cities and their inhabitants (119-225, 137+1104). That a line will be used as instrument of interstate commerce does not enlarge rights of company. 154 Fed. 386. Action by city (183 Fed. 854).

Cited and applied (101-197, 112+395).

Exercise of due care to prevent injury to trees on street (122-424, 142+807). Forfeiture of franchise (126-90, 147+712). Moving a house and removal of wires to permit passage (132-110, 155+1076).

An electric power line located on the highway and not a part of a real estate plant is personal property. 159-221, 199+9.

UNION DEPOT COMPANIES

See, also, 1913 c. 397, entitled: "An act to enable cities of the first class to acquire, construct and operate union railway passenger stations and tracks to connect the same with all railroad systems in the city; to require all railroad companies to run passenger trains to and from such stations and take and discharge passengers and their baggage therein; and to require compensation from railway companies for the use thereof; to acquire all lands and property necessary or convenient for such purposes by purchase, gift, condemnation or otherwise; to provide compensation to railway companies for the loss of existing passenger station facilities; and to confer on the railway and warehouse commission power to regulate the use of such station and facilities."

7537. In cities of first class—Powers and duties—In every city of this state, now or hereafter having a population exceeding fifty thousand inhabitants, into or through which two or more commercial steam railways may pass, and in which each or two or more of such commercial steam railways may maintain separate and independent passenger stations at different points within such city, or in which the union passenger depot facilities furnished and provided by such railways are insufficient and inadequate to meet the needs and comfort, or insure the safety, health and convenience of the traveling public, a body corporate may be formed for the purpose of supplying the means and doing the work necessary to acquire sufficient lands, and of erecting, constructing and maintaining

a union passenger depot, so situated, as to location, and of such dimensions, and so equipped, as to adequately meet all the reasonable requirements of passengers entering or departing from such city over any of such commercial steam railways.

Any such corporation, when organized pursuant to the power hereby granted, shall possess all the rights, powers and privileges, and be subject to all the duties and liabilities of railway corporations under the laws of this state, and shall also be subject to the regulation and control of the railroad and warehouse commission as hereinafter provided. ('11 c. 102 § 1) [6248]

7538. How incorporated—Certificate—Subscription to stock—Fifteen or more citizens of this state, desiring to form a corporation for such purposes, may make and subscribe a certificate of incorporation, in which shall be set forth the names and residences of the incorporators, the name of the corporation,—which shall embrace the words "Union Depot," and also the name of the city in which it is proposed to erect such union depot, with such other word or words as such incorporators may select,—the amount of the capital stock of such corporation, a full statement of the objects and purposes of said incorporation, the duration of the existence of said corporation, the number of persons who shall compose its board of directors, and such other things as are required to be stated in such certificate of incorporation by section 2849 of the Revised Laws of Minnesota, 1905 [7536], and acts amendatory thereof.

Such certificate of incorporation shall be executed in the same manner as is required by said section 2849 [7536], and shall be published, filed and recorded in the same manner as is required of other corporations by sections 2850 and 2851 of said Revised Laws of Minnesota, 1905 [7537, 7538], and acts amendatory thereof, and shall be subject to the payment of the same fees for the organization of such corporation as is required of other corporations by chapter 58 of the Revised Laws of this state, 1905, and acts amendatory thereof.

Said corporation shall not be authorized to exercise the powers, rights and privileges herein granted, with reference to the taking and condemnation of property, until one-fourth of its capital stock has been subscribed for by bona fide, unqualified subscriptions, and until, at least, ten per cent of the amount so subscribed has been paid in cash into the hands of the treasurer of the corporation, and until all the provisions of section 3 [7539] hereof have been fully complied with. ('11 c. 102 § 2) [6249]

Explanatory note—For R. L. '05, §§ 2849 to 2851, see §§ 7443 to 7446, herein.

The provisions of R. L. 1905 c. 58 are included in chapter 58 hereof.

7539. Maps, plats, etc.—Duties of railroad and warehouse commission, etc.—Whenever a corporation has been organized by complying with the foregoing provisions it shall, within three months thereafter cause to be filed with the railroad and warehouse commission maps, plats and drawings showing the real property to be taken by said corporation for its use, also the location, dimensions and general plans of the building, sheds, tracks and approaches to be built by said corporation on the lands so designated. Said railroad and warehouse commission shall thereupon examine said maps, plans and drawings for the purpose of determining whether they meet the reasonable requirements of said city for the purpose of a union depot and shall within thirty days after said filing

render a decision thereon. In case said commission shall find said maps, plans and drawings inadequate for the purposes herein provided, it shall so find and point out in detail such inadequacies and said corporation shall within sixty days thereafter so alter its plans and drawings as to conform to the direction of said commission, and when so altered to comply with such direction, said railroad and warehouse commission shall thereupon forthwith issue an order under the seal of said commission approving of said maps, plats and drawings, and thereupon such corporation may exercise the powers, rights and privileges herein conferred to the exclusion of all other persons or corporations. ('11 c. 102 § 3) [6250]

7540. Inadequate facilities—Complaint by railroad—Powers of commission and district court—If, at any time after such union depot shall be completed and opened for the use of the railroads and the public, any railroad using the same shall claim that the facilities afforded it by said corporation maintaining any such union depot are inadequate for the proper discharge of its business as a public carrier, it shall make a complaint in writing specifying the particulars of its claim, and file the same with the railroad and warehouse commission, who shall thereupon give notice by mailing a copy of such complaint to the corporation operating and maintaining any such union depot.

Within twenty days after the service of such complaint by said railroad and warehouse commission, the corporation maintaining any such union depot shall make and file its answer thereto with said commission, and thereupon the matter shall be at issue and ready for a hearing before and determination by said railroad and warehouse commission.

If, upon a hearing said charges shall be sustained, said railroad and warehouse commission shall thereupon make an order directing such changes to be made as will meet the requirements of the business of the complaining railroad.

In case any corporation maintaining such union depot shall fail for thirty days after notice of such order to begin the changes ordered by said railroad and warehouse commission, the district court of the county within which any such union depot is located, shall have jurisdiction by mandamus, or otherwise, to compel said corporation to comply with the order or orders of said railroad and warehouse commission. ('11 c. 102 § 4) [6251]

7541. Acquisition of property—Eminent domain—Any such corporation is hereby expressly authorized and empowered to acquire by contract, deed or other conveyance, any and all property, including lands, depots, depot grounds, tracks, bridges and appurtenances which it may deem necessary, convenient or expedient for the purposes of such union depot.

Any such corporation, after its incorporation shall have been completed, as hereinbefore provided, shall be vested with the power of eminent domain, and, in the exercise of such power, it is hereby authorized to take and condemn any and all lands, grounds, or other property which may be necessary to, or convenient for the location and construction of any such union depot and the tracks incident thereto, and also any and all depots, depot grounds, tracks, bridges or other property of any railroad, even though such depots, depot grounds, tracks, bridges or other property may be by such railroad used by it or others for railroad purposes.

The purposes of such union depot are hereby declared a paramount public use to which any and all other public uses to which any property may be dedi-

cated by any commercial steam or other railroad shall be subservient.

Whenever it shall be or become necessary for any such corporation to acquire any of the properties hereinbefore described by the exercise of the power of eminent domain hereby granted, it shall proceed according to the provisions of chapter 41 of the Revised Laws of the state of Minnesota for the year 1905, and acts amendatory thereof, and any such corporation is hereby invested with all the powers therein granted and also the additional powers herein granted. ('11 c. 102 § 5) [6252]

The provisions of R. L. 1905 c. 41 are included in chapter 41 hereof.

7542. Borrowing money—To enable a corporation organized pursuant to this act to provide the means necessary to enable it to fulfill the purposes for which it was created, it shall have power, and it is hereby authorized, after its incorporation shall have been completed, as hereinbefore provided, to borrow such money as it may need, not exceeding eighty per cent of the actual total cost of the property acquired and work to be done, and, for such purposes, it is further hereby authorized and empowered to place upon any and all of its property, however acquired, mortgages or trust deeds to secure the re-payment of any such sums of moneys as it may borrow. ('11 c. 102 § 6) [6253]

7543. Rates to be paid by railroads—Power of commission—Payments—Each railway making use of such union passenger depot shall pay for its use, to the corporation maintaining the same, in proportion to the amount or extent of such use which shall be computed upon a wheelage basis, or such other basis as the railroad and warehouse commission of this state may determine upon as just and reasonable.

In the use of any such union depot all commercial steam railways shall stand upon an equal right as to any such use, and any favoritism to, or discrimination against, any railway company in that respect is hereby expressly forbidden and declared to be unlawful.

The rate or rates to be paid by any and all of the railroads for the use of such union depot shall be fixed and determined by the railroad and warehouse commission, and shall be computed by said commission on such a basis as will produce, in the aggregate, a sum sufficient to pay the interest upon the bonds issued and secured by trust deeds or mortgages on the property of any such corporation; the cost of operation, maintenance, repairs and renewals; all taxes, assessments or charges, either levied or assessed by the public authorities on said property; and a dividend upon the par value of the capital stock of any such corporation of not exceeding six per cent per annum.

In addition to the foregoing, there shall be set aside each year out of the earnings of the corporation, a sum not exceeding two per cent of the bonded indebtedness as a sinking fund.

On the first day of each month, or as soon thereafter as may be practicable, any such union depot company shall furnish each railroad, using the facilities of such union depot, with a statement of account, showing the sums due by it for the previous month on the basis fixed by the railroad and warehouse commission, and the sum so due from each railroad to such union depot company for such use for such preceding month, shall be due and payable on or before the twentieth of the month in which such statement is rendered, and shall be paid by each railroad to such Union Depot Company. ('11 c. 102 § 7) [6254]

7544. Railroad failing to use—Powers and duties of commission and attorney general—If any railroad entering into or passing through any city wherein a union depot has been built pursuant to this act, shall neglect or refuse to use the same upon the terms and conditions prescribed in this act, such neglect or refusal shall be made known in writing by such union depot corporation to said railroad and warehouse commission, who shall thereupon order the railroad complained against to show cause before said railroad and warehouse commission why an order should not be issued by it requiring said railroad to make use of such union depot according to the provisions of this act, and any such union depot company shall also be given notice of the time and place of such hearing. If, at the time and place so fixed, it shall appear that facilities have been provided by such union depot company for use of such union depot by such railroad, and that such facilities are reasonably adequate to care for the business of said railroad, then the railroad and warehouse commission shall make its order in writing, under its seal, requiring said railroad to make exclusive use of said union depot according to the intent and purpose of this act.

If such railroad shall neglect or refuse to obey the order of said railroad and warehouse commission, the latter shall certify the facts in such case to the attorney general of the state, and thereupon it shall be the duty of the attorney general to proceed against such railroad in the district court of the county in which such union depot may be located, to compel performance by such railroad of such order by mandamus or other appropriate proceeding. ('11 c. 102 § 8) [6255]

TELEGRAPH AND TELEPHONE COMPANIES

7545. Telegraph companies common carriers—Persons and corporations engaged in the business of transmitting messages by telegraph lines are common carriers, and as such shall serve all persons, without discrimination or preference, for reasonable compensation; and every contract, notice, or condition stipulating for exemption from liability for the consequences of their neglect shall be void. (2928) [6256]

Construe with contract ascertainable "value" of telegraph message violative of these sections (133-252, 158+247).

A telegraph company is a common carrier. 294 Fed. 167.

7546. Delivery of message—When the party to whom a message is addressed resides or does business within the corporate limits of any city or village where a telegraph office is situated, the same shall be promptly delivered at his place of residence or business, if the same is known or can with reasonable diligence be ascertained. Otherwise he shall be notified by the first mail where it can be found. (2929) [6257]

7547. Precedence of messages—Messages delivered to the owner or agent of any telegraph line operated in whole or in part within this state shall be transmitted in the order in which they are received, except that government dispatches and messages relating to the movement of railroad trains, to cases of sickness or death, and to the administration of criminal laws shall take precedence if the sender shall so request. (2930) [6258]

7548. Liability for damages—If any person or corporation owning or operating a telegraph line wholly or partly within the state shall fail to transmit any message within a reasonable time, or to exercise due diligence to that end, after its reception, or shall fail

to deliver any message to the party to whom it is addressed within a reasonable time after its arrival at the place of destination, he or it shall be liable in a civil action at the suit of the party injured for all damages sustained by reason of such neglect or omission. The company delivering the message shall state plainly thereon the exact time when it was received at the original point for transmission. (2931) [6259]

Does not authorize damages for mental suffering (58-252, 59+1078). Language of message not indicating any damage to result from non-delivery, common law liability prevails (126-122, 147+962). See note [7545] (133-252, 158+247).

7549. Who may construct telegraph lines, etc.—Natural persons, co-partnerships, and associations may construct, maintain, and operate telephone and telegraph lines, and shall have and possess the same rights, powers, and privileges with reference thereto as corporations formed for such purpose. (2932) [6260]

'21 c. 92, authorizes any city of the fourth class, village or borough of this state, within and without its corporate limits, to erect poles and wires for the transmission of electrical current, and provides for the issuance of bonds to meet the expense thereof, designating same to be paid out of the general fund.

'21 c. 321 authorizes and empowers cities having a population of less than 10,000 in counties, neither more nor less than forty congressional townships, to purchase or condemn flowage rights, lands and easements outside of the corporate limits of such cities for the purpose of constructing on said lands a dam and power house for the generation of electricity to be used by said cities, and to be furnished to the inhabitants thereof. See §§ 1767-1 to 1767-3, herein.

BOOM COMPANIES

7550. Corporations for driving logs—Corporations formed for the purpose of driving logs may improve any stream or its tributaries, upon which no other person or corporation has constructed any dam or other improvement, by the construction of sluice ways, booms, dams, and other works for the driving, holding, and handling of logs therein, but shall not place any obstruction to navigation in such stream below the head of steamboat navigation. (2933) [6261]

7551. Powers and privileges—Every such corporation which shall so improve a stream, keep it in repair, and operate its works so as to render the driving of logs therein reasonably practicable, may collect reasonable and uniform tolls upon all logs, lumber, and timber driven, sluiced, or floated on the same, and may take possession of all logs put into such streams or upon rollways so as to obstruct such stream or impede the driving and delay others in driving logs and lumber placed therein, and drive them down and out of the stream, and collect from the owner or party controlling the same reasonable compensation therefor; and shall also, at the request of the owner, take charge of any logs or lumber put into said stream, and drive the same down and out of such stream, or as far as their improvements extend, and charge and collect reasonable compensation therefor. If any stream so improved is in whole or in part the boundary between this and an adjoining state, such corporation, with the consent of two-thirds of its stock, may purchase and hold stock in any corporation in such adjoining state created for similar purposes upon the same stream, or consolidate or otherwise unite with it whenever its purposes can be better effected thereby. All dams and other works constructed under the provisions of this section and § 7550 shall be so built and operated as to expedite the driving and handling of logs and lumber, and the corporation making such improvements shall not stop logs or lumber destined for

points below its works on said stream except where dams have been constructed to accumulate water for sluicing logs and flushing the stream below the same; in which case it shall not detain logs in any part of the stream so as to form a jam or prevent the prompt delivery of logs destined for points below the works constructed by such corporation. (2934) [6262]

See following section, and note.

Liability to riparian owner for negligence (71-206, 73+847). Right to collect tolls (75-335, 77+989).

7552. Corporations for driving logs—Powers and duties—Tolls—Liens—That section 2 of chapter 221 of the General Laws of Minnesota for 1889 entitled "An act to amend title one of chapter thirty-four of the General Statutes one thousand eight hundred and seventy-eight, relating to corporations" is hereby amended so that the same shall read as follows:

That said title one of chapter thirty-four be further amended by adding thereto the following: Any corporation formed under this title, in whole or in part, for the improvement of any stream or streams and driving or handling logs therein which shall have taken prior possession of such stream or streams, or any considerable portion thereof, upon which portion no other corporation organized for the purpose above mentioned has taken possession or has made improvements in aid of driving logs or of driving or handling therein, shall have power to improve such stream or streams, and their tributaries by clearing and straightening the channels thereof, closing sloughs, erecting sluiceways, booms of all kinds, side rolling sluicing and flooding dams, or otherwise, as may be necessary; and may acquire any and all dams, booms, structures and works already erected by any person or persons, and also all necessary rights of way, shore rights, land and lands under water, by purchase or by any of the methods provided in this title; but such corporation shall in no case in any manner materially obstruct or impede steamboat navigation, or driving or handling logs. It shall be the duty of every such corporation to serve the public equally and reasonably, and for a reasonable compensation. Every such corporation which shall so improve a stream and so keep in repair and operate its works so as to render driving logs thereon reasonably practicable and certain, may charge and collect reasonable and uniform tolls upon all logs, lumber and timber driven, sluiced or floated on the same, and may take possession of all logs put into such stream or upon rollways, so as to impede the drive when the owners thereof or their agents shall not have come upon the stream adequately provided with men, teams and tools for breaking the rollways and driving such logs in season for making a thorough drive down such stream without hindering the main drive; and shall also, at the request of the owner of any logs and timber put into said stream, take charge of the same and drive the same down and out of such stream, or down such stream so far as their improvements may extend and charge and collect therefor of the owner or party controlling said logs and timber reasonable charges and expenses for such services. And such corporation shall for all such tolls, costs and expenses have a lien on the logs for which the same was incurred, and may seize in whosoever possession found and hold a sufficient amount thereof, to pay the same, and make sale thereof upon giving ten days' notice in the manner provided for notifying sales on execution upon the judgment of justice of the peace, or may enforce such liens as other liens are enforced by proper proceedings for that purpose, or may ask,

demand, sue for, collect and receive from the owner or owners of such logs the amount due for any such tolls. No injunctive order shall be granted to prevent the use or enjoyment of any such improvement or abate any such dam necessary thereto, unless such corporation shall fail for sixty days after judgment, from which no appeal has been taken, to pay any damages recovered for any injury done by or in consequence of its works. Any corporation formed for the improvement of a stream, which is in whole or in part a boundary between this and an adjoining state or country and authorized to drive logs or maintain booms or dams in such stream, shall have authority to purchase and hold stock in corporation or corporations in such adjoining state or country created for similar purposes upon the same stream, or to consolidate or otherwise unite with such corporation or corporations in such adjoining state or country, whenever the purposes for which the corporation in this state is organized can be better effected thereby. Provided, that no such purchase or consolidation or other union shall be made without the consent of holders of two-thirds of the capital stock of such first named company. Provided, that all dams and other works erected under the authority given by this act shall be so constructed, used and operated as to facilitate and expedite the driving and handling logs and lumber upon the stream upon which the same may be erected, and the corporation making such improvements hereunder shall have no right to stop logs destined for points below its works on said stream except where dams have been constructed to accumulate water for sluicing logs and flushing the river below the same, and in such case shall not detain logs in any part of the river so as to form a jam or prevent the prompt delivery of logs destined for points below the works constructed under authority of this act. (G. S. 1878 c. 34 tit. 1, amended '89 c. 221 § 2; '05 c. 89 § 1) [6263]

Historical—1889 c. 221, was repealed by chapter 103; the provisions of section 2 thereof being incorporated in part in §§ 7550, 7551. Defendant, through its articles stated that it was incorporated under G. S. 1894 c. 34 tit. 2, was in fact organized for conducting the business contemplated by 1889 c. 221, amendatory of G. S. 1878 c. 34 tit. 1, and was entitled to the benefits of that statute (97-513, 107+735).

1889 c. 221 § 2, amended by 1905 c. 89, does not authorize such company to extend its works beyond center of Rainy Lake river and within jurisdiction of Canada (162 Fed. 287, 89 C. C. A. 267). Defendant was not authorized to levy tolls on logs, not having been requested by owner to drive, handle, or sort such logs, or authorized by fact that they were impeding main drive (115-296, 132+259).

Cited (101-197, 112+395; 115-96, 131+1059).

Extent and enforcement of lien (97-513, 107+735). Tolls for handling its logs cut in Canada (162 Fed. 287, 89 C. C. A. 267).

Limitation to rights of logging corporations in navigable rivers (127-10, 148+518). Rule for use by corporation constructing a dam (127-492, 150+219). See 118-24, 136+262.

7553. Pending actions—Nothing in this act contained shall affect any action or proceeding now pending in any court of this state. ('05 c. 89 § 2) [6264]

7554. Charges for boomage by certain companies—Any corporation engaged in the business of collecting, booming, assorting and delivering to their respective owners, logs or timber floating in any waters forming the boundary between this and any other state, at the place where such business is carried on and which logs or timber have been cut in such adjoining state, as well as in this state, may charge and collect from the owner, or owners of such logs or timber one dollar per thousand feet board measure for all logs and timber

so collected, boomed, assorted and made ready for delivery. ('11 c. 191 § 1) [6265]

7555. Scale—Fees—The number of feet board measure of logs and timber so collected, assorted and made ready for delivery to their respective owners by any such corporation shall be determined by a scale thereof to be made by the surveyor general of the lumber district in which said logs and other timber are so made ready for delivery, and before the same are delivered to the owner; such surveyor general shall be entitled to receive for his fees for making such scale three (3) cents per thousand feet for all logs so scaled, which fees shall be paid by the corporation so engaged in booming and assorting such logs, monthly on delivery of a scale bill showing the number and amount of each mark of logs scaled by such surveyor general during the preceding month. ('11 c. 191 § 2) [6266]

7556. Lien—Sale—The amount of boomage fixed by this act shall be deemed to be due whenever the logs or timber are made ready for delivery to the owners thereof, and any such corporation shall have a complete and perfect lien upon, and property in, all logs or timber in its possession so far as to enable it to take, scale and retain a sufficient number to pay the boomage and charges due on the same, and also boomage and charges due such corporation on logs or timber of the same mark, or different marks, belonging to the same original owner which may have been previously delivered, and may sell the same at public vendue at the place where said logs may be, to the highest bidder for cash by first giving notice of the time and place of sale with a description of the mark, or marks, and the quantity of logs or timber retained or to be sold in some newspaper published in the county in which the principal office of such corporation may be located, and also by posting a written or printed copy of such notice at the office of the surveyor general of logs and lumber in the lumber district in which such corporation is engaged in business, each of which publications and posting of said copy shall be made at least twenty (20) days before the time specified for such sale. At any such sale such corporation may fairly and in good faith purchase the whole or any part of such logs or timber, and shall after deducting and retaining all boomage and charges which may be due as aforesaid, and the expenses of such sale, pay the overplus, if any, to the party or parties lawfully entitled thereto. ('11 c. 191 § 3) [6267]

CEMETERY ASSOCIATIONS

7557. Existing and new cemeteries, how governed—All public cemetery associations existing at the time of the taking effect of the Revised Laws shall continue under the forms of organization adopted by them, respectively, and shall retain all the rights and powers then possessed. All cemetery associations hereafter formed and all private cemeteries hereafter established shall be organized and governed solely by the provisions of this chapter applicable thereto. (2935) [6268]

Taxation exemption applies only to public cemetery associations (138-70, 163+979; 193+171).

'07 c. 16 declared certain organizations legalized and validated as public cemetery associations, prior to February 21, 1907, where there were certain defects in the incorporation of same, and provided for legalizing their records and minutes of meetings, application not extending to private associations or those in counties with a city of over 50,000 inhabitants.

'07 c. 392, declared certain cemetery associations attempted, prior to April 24, 1907, to be incorporated under and pursuant to title five (5) of chapter thirty-four (34),

General Statutes of Minnesota, 1878, and also all acts of the board of trustees thereunder, legalized and validated.

'09 c. 387, declared certain cemetery associations prior to April 22, 1903, where the articles of incorporation were filed before January 1, 1872, duly incorporated as public cemeteries and granted them permanent succession, application not extending to counties with a city of over 50,000.

7558. Incorporation—Powers—Transfer by town, village or city to association—A corporation or association may be formed for the purpose of procuring and holding or selling lands or lots exclusively for the purpose of public cemetery and such corporation may acquire and manage all real and personal property necessary or proper for the establishment, embellishment, care and management of a cemetery and may construct and operate thereon a crematory and other proper means of disposing of the dead. It may also sell and convey cemetery lots or sell and convey real or personal property lawfully acquired by such association or corporation but not needed for cemetery purposes. Such corporation may be formed by three or more persons who shall execute and verify the certificate or articles of incorporation as required in the matter of the formation of other corporations under the provisions of this chapter. Such certificate of incorporation shall be filed for record in the office of the register of deeds of the county wherein such cemetery is situated and thereupon such association shall become a corporation. All cemeteries hereafter started or established except cemeteries established by religious corporations are hereby declared to be public cemeteries within the provisions of this act.

Any cemetery lands and property or public burial ground now or hereafter owned or controlled by any town, village or city of this state may be transferred by such town, village or city, by deed or otherwise, to any cemetery association or corporation formed or organized under the terms of this act or heretofore existing, and such transfer may be with or without condition as shall be determined by such town, village or city as the case may be; such town, city or village may as a part of such transaction enter into contract or agreement with such cemetery association providing for the management and manner of maintaining, keeping and caring for such cemetery, for the sale of lots or lands therein and for such other matters in relation to the care and control thereof as shall be deemed advisable by such town, village or city. (R. L. § 2936, amended '11 c. 385 § 1) [6276]

54-440, 56+56; 93-191, 101+161.

167-223, 208+811, note under § 7562.

7559. Actuary—Duties—Every such corporation, in addition to its ordinary corporate officers, shall annually appoint an actuary, or provide by its by-laws that its secretary shall perform the duties of such office. The actuary shall keep a register of burials, in which he shall enter the date of burial or cremation, and the name, age, sex, nativity, and cause of death, of every person interred or cremated in such cemetery, so far as such facts can be ascertained from the friends, attending physician, or undertaker in charge, and, in case of a pauper, stranger, or criminal, from the public official directing the burial. Such record shall be open to public inspection, and he shall furnish to the state board of health and to local health officers, when so requested, an accurate summary of such record during any specified year. (2937) [6277]

Register of burials (85-498, 506, 89+872).

7560. Failure to keep register—Forfeiture—Every actuary, or secretary performing the duties of an actuary, failing to keep such register of burials, and to

record therein all interments and cremations, for every such offense shall forfeit not less than two nor more than ten dollars for the benefit of the school fund of the district in which such cemetery or crematory is situated. (2938) [6278]

7561. Land, how acquired—Extension—Every such corporation may take and hold, by purchase or gift, within the county of its location, not exceeding three hundred acres of land to be actually used and occupied exclusively for the burial or cremation of the dead and for purposes necessary or proper thereto. Such land, or such portion thereof as may from time to time be required for that purpose, shall be surveyed and divided into lots of such size as the trustees shall determine, with such avenues, alleys, and walks as they deem proper, and a map of such survey shall be filed for record with the register of deeds of the county of its location; and whenever the corporation desires to enlarge its cemetery, and cannot agree with the owners of the land desired therefor, the same may be acquired under the power of eminent domain: Provided, that public necessity, propriety and convenience require such proposed enlargement, which, together with the boundaries thereof, shall be first established and determined as issues of fact. (2939) [6279]

70-436, 73+153; 93-191, 101+161.

The city council of the city of Minneapolis had authority to enact the ordinance forbidding the issuance of a permit for the interment of a body in a cemetery in which there had theretofore been no interments, until the city council had first given consent to the use of such cemetery for the burial of the dead. 167-410, 209+6.

7562. Sale of lots—After the filing of the map mentioned in § 7561, the trustees may sell and convey the lots as designated on such map, upon such terms and subject to such conditions and restrictions as they shall prescribe. Every conveyance of any such lot shall be expressly for burial purposes and no other, and shall be in the corporate name of the association, and signed by its president or vice-president and by its treasurer or secretary. (2940) [6280]

85-498, 89+872.

A lot owner in a public cemetery has the right to have the graves thereon cared for and decorated by persons chosen by himself, and a rule of the association requiring him to employ only employees of the association to do such work is unreasonable, and an unlawful restriction upon his rights. 167-223, 208+811.

7563. Funds, how used—Grants in trust—The proceeds of the sales of lots and of personal property, not invested as hereinafter provided, shall be applied solely to the payment of debts incurred in the purchase of cemetery grounds and property, to fencing, improving, and beautifying such grounds and the avenues leading thereto, and to defraying the necessary expenses of the management and care of the same. All real or personal estate given or granted to such association for the maintenance of any monument or the keeping or improvement of any grounds within the cemetery shall remain forever to the uses for which it was given or granted. (2941) [6281]

85-498, 89+872.

Public cemetery not deemed organized for pecuniary profit (193+172).

7564. "Associates" defined — Vacancies — Annual meeting—The word "associates," as used herein, shall mean the original incorporators and their successors. The certificate of incorporation may provide that vacancies among the associates shall be filled by the remaining associates, and that at all elections after the first the trustees shall be chosen from such associates, or it may provide that they shall be chosen by and

from the lot owners. Whenever there are two or more owners of a lot, they shall select one to represent them and to vote at such election. The trustees may fill any vacancy occurring in their own number for the unexpired term. Public notice of every annual election shall be given in the manner prescribed in the by-laws. If for any reason the annual election be not held on the day fixed in the certificate of incorporation, the trustees may appoint another time not more than sixty days thereafter, and give public notice thereof; but the term of office shall be the same as if elected at the annual election. (2942) [6282]

7565. Report of trustees—At each annual meeting the trustees shall make a report in writing of their doings, and of the affairs of the association, with an account of all receipts and expenditures during the preceding year. (2943) [6283]

7566. Action for damages—Every such cemetery association may recover, in its own name, all damages resulting from injury to or destruction of any stone, monument, building, fence, railing, or other work for protection or ornament, or any tree, shrub, or plant within the limits of such cemetery. (2944) [6284]

7567. Employees—Appointment—Powers—The trustees or officers of any cemetery association may appoint such superintendents, watchmen, gardeners, and agents as they may deem advisable, and, upon taking and subscribing an oath similar to that required from constables, every such appointee shall have all the rights and powers of a police officer within and adjacent to the cemetery grounds. (2945) [6285]

7568. Exemption from taxation, etc.—The lands and property of any such cemetery association shall be exempt from all public taxes and assessments, and shall not be sold on execution against such association or any lot owner. The owners of cemetery lots, their heirs or legal representatives, may hold the same so exempt so long as they remain appropriated to the use of a cemetery; and no road or street shall be laid through such cemetery, or any part of the lands of such association, without the consent of the trustees. (2946) [6286]

36-529, 32+781; 54-440, 445, 56+56; 85-498, 506, 89+872; 93-191, 101+161; 114-287, 131+327.

This section is not unconstitutional (134-441, 159+962; 138-70, 163+379; 155-187, 193+172).

7569. Lots inalienable — Conveyance —Whenever any lot in such cemetery has been sold and conveyed for burial purposes, it shall forever thereafter be inalienable except as hereinafter provided. Before any interment shall have been made therein, or after all bodies therein buried, if any, shall have been lawfully removed, the owner of such lot may sell, convey, and release the same to the association, and when, by the consent of the owner, any lot has been solely used by some other person as a family burial place, such owner, with the consent of the governing body of the association, may convey the same to the person so using it. The association may use any of its funds for such repurchase, and may hold said lot or again sell and convey the same. (2947) [6287]

Not subject to mortgage (54-440, 56+56; 67-131, 69+708).

7570. Cemetery associations may reinvest themselves with title to burial lots when—Procedure—Whenever any cemetery association organized under the laws of this state shall have heretofore conveyed to any person or persons the right of sepulture or burial upon any platted lot or designated piece of ground within the area of such cemetery, and the deed or conveyance thereto from such association provides that the said lot shall be held subject to all the rules,

by-laws and regulations of such cemetery association and such deed or such rules, by-laws or regulations further provide for the payment of an annual charge for the care, up-keep and maintenance of such lot, and the owner thereof named in such deed or conveyance neglects or refuses to pay such annual charge, for the period of ten successive years, the said cemetery association may reinvest itself with the title to the portion of such cemetery lot not actually used for burial purposes, in the manner hereinafter set forth, to-wit:

If the owner of such cemetery lot shall be a resident of the county wherein such cemetery is located, then such association may cause to be served upon such owner, in the manner prescribed by law for the service of a summons in a civil action, a notice specifying the amount unpaid for lot care upon said lot, and specifying a time within which the same must be paid to the secretary of such association, which time shall not be less than thirty days from the date of the service of said notice, and further specifying that upon the failure of the said owner of said lot to pay the amount specified in said notice within the time aforesaid, that the association will take the necessary steps to reinvest itself with the title to the portion of such cemetery lot not actually used for burial purposes. Upon the failure of the owner of said lot to pay said amount within the time specified in said notice, the board of trustees of such cemetery association may, by resolution duly adopted at any regular meeting of such board of trustees, set forth said failure to pay said charges for lot care, the service of the notice prescribed herein, and declare such portion of said lot unused for burial purposes, describing the same by metes and bounds in such resolution, to be the property of said association. ('21 c. 167 § 1)

7571. Notice—Publication of—Whenever it shall be determined by the return of the sheriff of the county in which said cemetery is located, that the owner or owners of said lot or lots is not a resident of said county and cannot be found therein, then said association may cause such notice to be published in a legal newspaper within said county for the period of three weeks, which said notice shall specify a time for payment, at least thirty days after the completed service of such notice by publication thereof, and after the expiration of the time therein specified, the said board may adopt the resolution hereinbefore set forth, and reinvest the association with the title to the portion of said cemetery lot unused for burial purposes. ('21 c. 167 § 2)

7572. To be part of records of association—All such notices with the proof of service or publication thereof, and all such resolutions adopted by the board of trustees of said association shall be made a part of the records of said association, and whenever the deed or conveyance from said association to said lot owner shall be and appear of record in the registry of deeds of said county, a copy of such resolution, certified to by the secretary of such cemetery association, and a copy of the printed notice with the sheriff's return thereon, shall be placed of record in said registry of deeds. ('21 c. 167 § 3)

7573. Contents of notice—Such notice and all proceedings had pursuant to this chapter in relation to any such cemetery lots, shall distinctly describe by metes and bounds the portion of such cemetery lot unused for burial purposes; and such association is hereby required to leave sufficient ingress to, and egress from, any grave upon said lot, either by duly dedicated streets or alleys in said cemetery, or by leaving suffi-

cient of the unused portion of such cemetery lot for such purpose. ('21 c. 167 § 4)

7574. Shall not apply when—This act shall not apply to any lot or lots in any cemetery association where a perpetual care contract has been entered into between such cemetery association and the owner of such lot. ('21 c. 167 § 5)

7575. Effect—Time limit—Compliance with the terms of this act shall as fully reinvest the association with, and divest the record owner and his descendants of, the title to such portion of such cemetery lot unused for burial purposes, as though the same had never been conveyed to any person, and such association shall have, hold and enjoy such reclaimed portions of such lots for its own uses and purposes, subject to the laws of this state, and to the charter, by-laws, rules and regulations of such association: Provided, that such association shall not be permitted to alienate any such lot for the period of one year from and after the adoption of the resolution provided for in this act by the board of trustees of such association; and further provided, that if at any time during said one-year period, any person or persons entitled to such cemetery lot by the laws of this state, shall pay or cause to be paid to such association all said unpaid lot care, together with the expenses of the service of the notice hereinbefore provided for, and any additional sums due for lot care subsequent to the date of such notice, as prescribed by the by-laws, rules and regulations of such cemetery association, and shall take out and pay for a perpetual care contract upon such lot, the said cemetery association shall reconvey such lot to the person or persons lawfully entitled to the same. ('21 c. 167 § 6)

7576. Cemetery associations to reinvest themselves with title to unused portion of lots—Notice—That in all cases where a duly incorporated association has owned a site for a cemetery for more than forty years and has during said period sold lots and parcels for burial purposes, and has, prior to 1900, conveyed cemetery lots and parcels by deed of conveyance without restrictions contained therein and the grantee therein or parties claiming through such grantee have not used portions of such lots or parcels for purposes of burial and have not kept such lots or plots free of weeds or brush but have allowed the same to remain entirely unimproved for more than twenty years, and such lots or parcels are situate in such portion of the cemetery that they adjoin or are adjacent to improved parts of such cemetery and by reason of their unimproved condition detract from the appearance of such cemetery and interfere with its harmonious improvement and furnish a place for the propagation and growth of weeds and brush, such corporation may, by resolution of its governing board, demand of such owners or holders that they keep the premises clear of weeds and in a condition in harmony with other plots adjoining, and serve a copy of such resolution upon such party or parties if they can be found in such county, and if the sheriff of such county make return upon such resolution that such parties or any of them cannot be found in such county, then such resolution may be served upon the parties so absent from such county by publication thereof for three successive weeks in a legal newspaper published in such county. ('21 c. 358 § 1)

7577. Action to quiet title to be brought—If for thirty days after the first day of May following such service or publication the party or parties fail to conform with the demands of such resolution, the rights

of such party or parties may be deemed abandoned and thereupon said corporation, upon permission from its governing board, may bring an action in the district court of said county against all parties so in default, uniting as many parties so in default as it may desire in one action, to have the rights of said parties in such lots or parcels terminated and the property restored to such corporation free of any right, title, or interest of all such defaulting parties, their heirs or assigns. Such action in all other respects shall be brought and determined in the same manner as ordinary actions to determine title to real estate, provided that that portion of any tract or part of tract shall not be included in any of said proceedings in which a body lies buried and there shall be left sufficient ground adjoining such grave or burial place as will provide proper mode of approach, the excepted portions, if any, to be particularly and fully described. ('21 c. 358 § 2)

7578. Prima facie evidence of abandonment—In all such cases the fact that such grantee or holder has not, for a term of twenty years or more used such plot or definite parts thereof and has failed to keep the same clear of weeds or brush, shall be prima facie evidence that such party has abandoned the same. ('21 c. 358 § 3)

7579. Copy of judgment to be filed with register of deeds—A certified copy of the judgment in such action quieting title may be filed in the office of the register of deeds in and for the county in which said parcel is situate. ('21 c. 358 § 4)

7579-1. Cancellation and termination of contracts for purchase of lots by associations in first class cities—Refunds to purchasers—Whenever any cemetery association in any City of the First Class, organized under the laws of this state, shall enter into a contract to convey to any person or persons the right of sepulture or burial upon any platted lot or designated piece of ground within the area of such cemetery, by which contract the association has a right to terminate the same in case of default by the purchaser, it may do so in the manner provided by the laws of this state for the termination of any contract for the conveyance of real estate or any interest therein. Provided, however, that if any interments or burials have been made on said platted lot or designated piece of ground so sold, said contracts to convey may be terminated only as to the portion of the premises not actually occupied by said interment or burial. Such association shall thereafter refund to said party all money paid by him after deducting the value of the proportionate part of the lot occupied, accrued interest on the purchase price, and reasonable cost and expenses of termination of such contract. ('27, c. 196, § 1)

7579-2. Same—Existing contracts—All contracts heretofore entered into by cemetery associations for the sale of lots or tracts for burial purposes, and which contain provisions for the termination hereof may be terminated as herein provided. ('27, c. 196, § 2)

7579-3. Same—Laws not affected—Nothing in this act shall be construed as repealing expressly or by implication any of the provisions of Chapter 167, Laws of Minnesota 1921, or of Chapter 358, Laws of Minnesota, 1921. ('27, c. 196, § 3)

Explanatory note—For Laws 1921, c. 167, see §§ 7570 to 7575, herein. For Laws 1921, c. 358, see §§ 7576 to 7579, herein.

7580. Public cemetery associations may sell property in certain cases—Any public cemetery association which owns lands that now are or hereafter may be no longer used for the burial of the dead is hereby au-

thorized and empowered to do any or all of the following:

(a) To institute and prosecute to final judgment an action to determine adverse claims to said lands in accordance with the provisions of law relating to actions to determine adverse claims;

(b) To sell and convey said lands;

(c) To transfer and assign any funds or other property it may possess to such other public cemetery association as may at the time be serving the same community in the burial of the dead.

Provided, that none of said powers shall be exercised as long as any dead remain buried in such cemetery. ('21 c. 234 § 1)

7581. Descent of title to cemetery lots—Upon the death of a lot owner, such lot, unless otherwise disposed of as provided in Section 7582, shall descend as follows:

1. To the surviving spouse of the decedent.
2. If there be no living spouse, then to the eldest living son of decedent.
3. If there be no living son, then to the eldest living daughter.
4. If there be no living daughter, then to the youngest brother of decedent.
5. If there be no living brother, than to the youngest sister of the decedent.
6. If there be no surviving spouse, son, daughter, brother or sister of decedent, then to the cemetery association or private cemetery, as the case may be in trust for the uses of a burial lot for the decedent and such of his relatives as the trustees in the case of a cemetery association or the directors or other managing board, person or official as the owner of any private cemetery may delegate and empower for that purpose shall deem proper. But such cemetery association or private cemetery, as the case may be, or with its consent, any person to whom such lot shall so descend, may grant and convey the same to any of decedent's sons, daughters, brothers, sisters or grandchildren, and such grantee shall thereafter be deemed the owner thereof. (R. L. '05, § 2948; G. S. 1913, § 6288; amended '15, c. 233, § 1; '27, c. 295, § 1)

7582. Conveyance or other disposal of lots by owners—Any owner of a cemetery lot may dispose of the same by will to any one of his relatives who may survive him, or to such cemetery association or private cemetery as the case may be, in trust, for the use and benefit of any person or persons designated in said will; but no such lot shall be affected by any testamentary devise unless the same be specifically mentioned in the will, and by such devise limited to one particular person. Any owner of a cemetery lot may in his lifetime convey said lot to said cemetery association or said private cemetery in trust for the use and benefit of any person or persons named in the trust conveyance. Such conveyance may contain such conditions, provisions and covenants as the parties may therein agree upon. No interment shall be made in any such lot, except by written consent of the cemetery association or private cemetery as the case may be, of the body of any person who was not, at the time of death, the owner thereof, or a relative of the owner by blood or marriage. That every conveyance or alienation or attempt at conveyance or alienation of any right, title or interest in or to such lot, contrary to the foregoing conditions and reservations, shall be void. Every such cemetery association or private cemetery as the case may be, shall keep a record of all deeds, conveyances, judgments, decrees or other documents

affecting the title to lots in such cemetery, copies of which certified by some person, officer or official thereunto duly authorized, shall be received in evidence by the courts. Such cemetery association or private cemetery may, instead of deeding the fee title to said lot, grant only the exclusive right of interment or sepulture in said lot. (R. L. '05, § 2949; G. S. '13, § 6289; amended '15, c. 233, § 2; '27, c. 295, § 2)

7583. Certain reconveyances legalized—That in any case where cemetery lots have been reconveyed to a cemetery corporation, organized under the laws of this state, by mesne conveyances including wills, instead of directly from the original lot owner, such reconveyance is hereby legalized and declared valid and effectual, provided that no interments were made in such lots by the owner thereof prior to such reconveyance; and provided further, that the provisions of this act shall not apply to any action or proceeding now pending in any (of) the courts of this state. ('05 c. 333 § 1) [6290]

7584. Care and improvement fund—Every cemetery association which has established and maintains a public cemetery of more than twenty acres in extent, by a vote of two-thirds of its trustees taken at any regular meeting thereof, may provide for the establishment of a fund, the income of which shall be devoted to the care, maintenance, and improvement of such cemetery. Such fund shall be designated as "the permanent care and improvement fund." (2950) [6291]

See following section.

7585. Cemetery associations having not less than a one-half acre cemetery may establish permanent fund—Any cemetery association formed under the provisions of law and having a board of trustees or directors, not less than three in number, which shall have established and shall be maintaining a cemetery of not less than one-half acre in area, may by a two-thirds vote of such trustees or directors of such association, which vote may be taken at any regular meeting of such board, provide, in accordance with this act and the provisions of law in the statutes provided, for the establishment of a permanent fund, the income whereof shall be devoted to the care, maintenance and improvement of such cemetery which shall be known as "permanent care and improvement fund" of such cemetery association." ('87 c. 168 § 1, amended '97 c. 339 § 1; '05 c. 197 § 1; '15 c. 345 § 1) [6292]

Historical—1887 c. 168 and 1897 c. 339 were repealed by ch. 108, the provisions of 1907 c. 339 § 1, amended 1897 c. 339, being incorporated in the preceding section. So far as the above section differs from the Revised Laws, it is to be construed, by virtue of Ch. 107, as amendatory or supplementary.

7586. Trustees of fund—The trustees shall thereupon choose by ballot and appoint by deed of the association a board of not less than three nor more than five trustees of such fund. They shall be resident freeholders of this state during all the time they exercise the powers of such trust. Upon failure of any of those appointed to qualify within thirty days after appointment, the one or more who shall have qualified shall appoint by deed other persons to be trustees in their places. And on failure of any person so appointed to qualify within thirty days another shall be appointed in like manner; but every appointment to fill a vacancy shall be by unanimous vote of those acting: Provided, that instead of appointing such board the trustees of the association may designate any trust company of the state to act as such trustee during their pleasure. All instruments of appointment of

such trustees shall be recorded with the secretary. (2951) [6293]

7587. Powers—Term of office—Accounting—Upon the appointment and qualification of trustees of such fund, or upon the designation of a trust company to act as such trustee, the title to the funds included in said trust, and all the rights, powers, authorities, franchises, and trusts thereto appertaining, shall at once vest in such board, or in the part thereof qualifying within thirty days, or in the corporation so designated. The term of office of the trustees of such fund shall be for life. When a trust company has been appointed, a board of trustees of the fund, or another like corporation, may be appointed in its place, and on notice of such appointment the corporation so acting shall render to its successor an account of its trusteeship, and deliver to it all money, papers, and property in its possession or control belonging or appertaining to such fund. (2952) [6294]

7588. Bonds—Before entering upon his duties, each person chosen as a trustee of such fund shall give bond to the association in a sum not less than five hundred dollars, and at least equal to one-third the amount of the fund at that time, conditioned for the faithful discharge of his trust. Upon July 1 in each even numbered year every trustee shall give a new bond, in amount and with conditions as aforesaid. Every such bond shall be approved by a judge of the judicial district in which such cemetery or some part thereof is situate, and filed with the treasurer of the association. Failure by any trustee to renew his bond within thirty days after the time herein specified shall be a sufficient ground for his removal on application of any person interested. (R. L. § 2953, amended '07 c. 211 § 1) [6295]

7589. Surviving trustees—Vacancies—In case of the death, resignation, disability, or removal of one or more of the trustees of such fund, the trust shall at once vest in the remaining trustees, who shall forthwith fill the vacancies by appointment. Every newly appointed trustee, upon qualification, shall succeed to an equal share in all the rights and duties of such board. (2954) [6296]

7590. Organization of new board—In case of the death, removal, resignation, or disability of all the members of such board, the trust, until the organization of a new board, shall vest in the district court of the county in which such cemetery is situate. The board may be reconstituted by such court, upon application of any person interested and such notice as it may direct. The trustees so appointed, upon qualifying, shall become vested with all the rights and powers of the original board. Every vacancy in the board continuing for one year may be filled by such court. (2955) [6297]

7591. Fund, how constituted—Twenty per cent of the proceeds of all sales of cemetery lots made after the vote of the trustees to establish said care and improvement fund shall be paid over to such board or trustee, on January 1, April 1, July 1, and October 1, in each year, until the principal of said fund shall amount to at least one hundred thousand dollars; and any other income or funds of the association, in excess of its liabilities, may be added to such fund by a two-thirds vote of its trustees. But the principal of such fund shall in no event exceed five thousand dollars for each acre of the cemetery, nor one million dollars in the aggregate. (2956) [6298]

7592. Investment—Income—Unexpended balances—The principal of such fund shall remain intact and inviolate, and may be invested in the same securities

in which savings banks are by law permitted to invest, and not otherwise. The trustees thereof, on January 1 and July 1 in each year, shall turn over to the association all income arising from such fund, which shall be used solely for the care, maintenance, and improvement of the cemetery and the avenues leading thereto; but in case any portion of such income remains unexpended and unappropriated for one year after being so paid over, it shall be returned to the trustees of the fund and become a part of the principal. (2957) [6299]

7593. Compensation—Every trustee of such fund shall receive five dollars for each day actually employed in the duties of such trust, but not exceeding one hundred dollars in any one year. Such fees shall be paid out of the general funds of the association until such trust fund reaches one hundred thousand dollars, or two thousand dollars for each acre of the cemetery. Thereafter the same shall be paid out of the income fund. A corporation acting as trustee may receive for its services as such any yearly compensation agreed upon, not exceeding five per cent of the income. (2958) [6300]

7594. Secretary—Annual report—When such fund is in the care of a board of trustees, the secretary of the association shall act as its secretary and keep a full record of its proceedings. Such board, on November 1 each year, shall make a full report of the condition of the fund to the trustees of the association, which report shall be open to the inspection of all lot owners. (2959) [6301]

7594-1. Permanent care and improvement fund—Establishment by township supervisors, governing bodies of cities, villages or boroughs, or trustees or directors of association—Procedure—Deposit in county treasury—That the board of supervisors of any township or the governing body of any incorporated city, village or borough, or the board of trustees or directors, not less than three in number, of any religious incorporation or of any association formed under the provisions of law for the purpose of maintaining a cemetery in the state of Minnesota, which shall have established and shall be maintaining a cemetery of not less than one-half an acre in area, a plat of which is on file in the office of the register of deeds of the county in which such cemetery is located, by a unanimous vote of such supervisors, members of governing body, trustees or directors, which vote may be taken at any regular meeting of such board or governing body, or at a special meeting called for the purpose, may provide in accordance with the provisions of this act for the establishment of a permanent fund to be deposited in the county treasury, the income whereof shall be devoted to the care, maintenance, and improvement of such cemetery, which shall be known as the "permanent care and improvement fund" of the cemetery of such municipality or incorporation. And it is herein provided that the establishment of any such permanent care and improvement fund, as hereinafter provided, shall not be deemed invalid as violating any existing law against perpetuities or suspending the power of alienation, provided, that such fund shall never, in any case, be allowed to exceed \$15,000 per acre of the cemetery to be cared for. ('21, c. 247, § 1)

7594-2. Same—Board of directors defined—The term "board of directors" as used in this act shall refer to and include the board of supervisors of any township, the governing body of any city, village or borough, the board of trustees or directors of any religious incor-

poration or of any cemetery association described in section 1 of this act. ('21, c. 247, § 2)

Explanatory note—For section 1, see § 7594-1, herein.

7594-3. Same—Powers of board of directors—Use of interest—That said board of directors of any such cemetery is hereby given the power and authority to require and provide that any certain part or portion of the price paid for a lot in such cemetery shall be taken and deposited as hereinafter provided, as a part of said "permanent care and improvement fund," and that the interest accruing from the amount set aside from said lot shall be expended by the board of directors of such cemetery in caring for and beautifying such lot, except as hereinafter provided. ('21, c. 247, § 3)

7594-4. Same—Gifts to fund—Use of fund—That said board of directors, is hereby authorized and empowered to receive, accept and deposit, as hereinafter provided, any donation or gift, of money made to such fund so created and to provide and require that the interest therefrom shall be used in the care, maintenance and beautifying of such lot or lots in such cemetery, or in the care and beautifying of such cemetery, or for the care and beautifying of any particular lot or lots in such cemetery, and shall use the same and the interest therefrom for the purpose specified by the donor; provided, however, that if funds are lacking for the general care of such cemetery, in the discretion of the board of directors a one-fifth part of the income, received annually from that portion of the permanent fund credited to any particular lot or lots by sale or gift, may be used by said board for the general care of said cemetery. ('21, c. 247, § 4)

7594-5. Same—Deposit of funds in county treasury—From and after the vote to establish such permanent care and improvement fund the board of directors of any such cemetery shall, quarterly on the first days of January, April, July and October in each year, deposit in the county treasury of the county in which such cemetery is located all such money belonging to such permanent fund, and the county treasurer of any such county is hereby authorized, empowered and directed to receive the same and all such and deposit it as hereinafter provided. The said board of directors shall also file with the county auditor of said county for record and future reference, at the time of the deposit of said funds, a statement of each particular amount so set aside from the sale of a lot or lots or the amount received by a gift or donation of money together with the name of the owner of such lot or lots and the name of the donor of each particular gift and a description of the lot or lots to which the income from such particular amount as a part of such permanent fund is applicable. ('21, c. 247, § 5)

7594-6. Same—Fund to be county cemetery fund—Management and investment of—Interest on fund—That the aggregate funds so deposited in the county treasury of any county in the state by the boards of directors of all cemeteries in said county acting under the provisions of this act, shall constitute the "county cemetery permanent care and improvement fund" called "county cemetery fund." That said funds shall be managed and invested by the board of county auditors of such county. That said funds, and all thereof, as soon as received by the county treasurer shall be deposited in a bank or banks, designated as a depository of county funds by the board of auditors of such county. That the interest due on said fund shall become due and payable, as far as possible, on or about the first day of February of each year. ('21, c. 247, § 6)

7594-7. Same—Deposit of and interest on fund— That for the purpose of such deposit said fund so created shall be treated as other funds in the county treasury, except as otherwise provided and shall draw no less a rate of interest than is paid on the funds of said county deposited in said depository, provided, however, that the board of auditors of said county may require all or part of said funds to be deposited on time certificates in said depository in the name of said county treasurer, payable to him or his successors in office, and the said county treasurer shall secure on such time deposit the highest rate of interest which said depository will pay thereon and not less than the current rate paid on time certificates by such depository, and for such principal and interest so deposited on time certificates, such treasurer shall be liable in the same way and manner and to the same extent that he is liable upon his bond for moneys deposited on behalf of the county. ('21, c. 247, § 7)

7594-8. Same—Depository for fund—Bond of Depository— That said county cemetery fund shall be deposited in a depository designated by the county board of auditors, in the name of the county and at the highest rate of interest which said depository will pay thereon, and the bond or security given to said county by such depository shall be taken and held to be as security for such fund, but the treasurer of such county shall keep an accurate and separate account thereof and shall draw from such depository annually the interest accruing on such fund for the purpose of distribution as hereinafter provided. ('21, c. 247, § 8)

7594-9. Same—Investment of funds— That the board of county auditors, pursuant to a petition of at least two-thirds of the boards of directors of the cemeteries in any such county requesting such action, shall, with the approval of the county attorney of such county, invest said county cemetery fund, or a part thereof, in the same kind of bonds and securities that the permanent school fund of the state of Minnesota may be invested in and for such purpose, and none other. And the law as it shall exist, at the time any money is received into this fund shall control the investment thereof and such fund shall be invested only as the law provides at the time of the receipt of the money into said fund and no subsequent amendment or change in the law shall authorize the investment of any fund differently or in any other class of securities save as provided in the law when said money is received into said fund. The board of county auditors may require the county treasurer of any such county to withdraw all or any part of such fund from such depository for investment as hereinbefore provided, and if said fund or any part thereof be so invested, the said bonds, or other securities shall be and remain with the county treasurer and the bond of the county treasurer shall at all times be security for the proper care thereof and the payment of interest received by him thereon to the directors of such cemeteries, and upon payment of any such bonds or other securities the treasurer of such county upon such payment shall deposit the same in the depository in which county funds are deposited, the treasurer of such county shall collect the interest upon the funds so loaned and pay the same to the treasurers of such cemeteries as hereinafter provided. ('21, c. 247, § 9)

7594-10. Same—Accounts kept by auditor— That the county auditor of any such county wherein the board of directors of a cemetery or cemeteries is acting under the provisions of this act, shall keep an account of the funds deposited in the county treasury

as herein provided, crediting to the permanent fund of each cemetery all money deposited by its board of directors and preserving, for historical reference and record, the amount of each gift or portion set aside from the sale of each lot with the name of the donor of each gift and of the buyer of each lot or lots, and further the description of each particular lot or lots, or what part of the cemetery the income from said permanent fund is applicable for care as herein provided. ('21, c. 247, § 10)

7594-11. Same—Annual report by secretary—Deposit of excess interest— That on or before the first day of February of each year the clerk or secretary of the board of directors of each such cemetery shall make and file with the county auditor a report showing in detail the amount expended of the interest received from said county cemetery fund during the preceding calendar year. And provided, further that all excess of such interest over the sum necessary for the care and beautifying of said lots or cemetery, or that has not been expended, in any one year shall be deposited in the county treasury of said county and be added to and become a part of the permanent fund credited to such cemetery, no part of which shall ever be used. ('21, c. 247, § 11)

7594-12. Same—Apportionment of interest on fund— On or before the first day of March of each year the county auditor shall apportion the interest from such county cemetery fund that shall have been collected by the county treasurer during the year, to each cemetery herein credited with a permanent fund in the proportion as the amount of such cemetery's permanent fund, deposited in the county treasury, bears to the county cemetery fund. Provided, however, that funds deposited according to the provisions of section 5 of this act just before the close of such year, on which no interest has been collected, shall not be considered as a part of the permanent fund for that apportionment. ('21, c. 247, § 12)

Explanatory note—For section 5, see § 7594-5, herein.

7594-13. Same—Report by auditor to secretary— That immediately after such apportionment the county auditor shall report to the secretary of each such cemetery the apportionment of interest due such cemetery, together with a statement of the total amount of funds received by the county treasurer under the terms of this act during the preceding year closing on January 1 of each year and also a statement of the total amount of such permanent care and improvement fund belonging to such cemetery. ('21, c. 247, § 13)

7594-14. Same—Interest paid to treasurer of board— That on and after the first day of March of each and every year, if the board of each such cemetery shall have made its report and deposited the excess of interest as provided in section 11 of this act, and not otherwise, the county treasurer, under the warrant of the county auditor, shall pay to the treasurer of the board of directors of each cemetery acting under the provisions of this act its apportioned share of the interest from such cemetery fund. ('21, c. 247, § 14)

Explanatory note—For section 11, see § 7594-11, herein.

7594-15. Same—Audit of fund—Counties excepted— The first time in each year that the board of county auditors of any such county shall examine and audit the accounts, books, and vouchers of the county treasurer of said county, it shall make an examination of the county cemetery fund of said county. A statement of the condition of this fund shall be published

as provided by section 846, General Statutes, 1913, at the expense of the cemetery fund, which shall show the total of all moneys received under the provisions of this act during the preceding calendar year and a statement of the total amount then in such county cemetery fund on the first day of said calendar year, and the amount and kind of securities in which such fund is invested and a statement of the amount of interest collected on said fund during said year; provided, however, that this act shall not apply to any county in this state having a population of 50,000 or more according to the last United States census. ('21, c. 247, § 15)

Explanatory note—For section 846, G. S. 1913, see § 844, herein.

7594-16. Assessments levied on lots for care, etc., thereof—Enforcement—When any assessments are duly levied by any cemetery association authorized to levy the same by its articles of incorporation, by-laws or otherwise for the care, upkeep and maintenance of any lot or lots in such cemetery and remain unpaid for a period of 10 years, then the unused portion of such lot or lots shall thereupon revert to and become the absolute property of the cemetery association in which said lot or lots are situated; provided, that such reversion shall become effective only upon entry of judgment in the District court of the county in which the cemetery is situate, in proceedings instituted therefor upon petition by the association to the court and after hearing thereon upon such notice to interested parties as may be prescribed by the court. ('27, c. 208)

7594-17. Fund for perpetual care of lots or graves set aside by probate court—Maximum amount—Any court having jurisdiction of the estate of any deceased person, before final distribution of such estate, may order set aside from said estate the reasonable and uniform sum which has been fixed and determined by the governing board of the cemetery wherein said deceased person is interred, not to exceed the sum of \$100.00, for the perpetual care of the lot or grave of the deceased, and direct payment thereof to the treasurer of the permanent care and improvement fund of the cemetery association or other governing board having control of the cemetery wherein said lot is situated. ('25, c. 209, § 1)

7594-18. Same—Application of law—This act shall not apply to any cemetery association or other governing board in any city of the first class, nor to such association or board having the cost of perpetual maintenance of graves included in the established price of its cemetery lots, nor shall it apply where payment for the perpetual care of the lot or grave has been made to the cemetery association, nor where such deceased person has made provision for such care either in his lifetime or by his last will and testament, duly admitted to probate. ('25, c. 209, § 2)

7595. Reorganization of certain associations—Any cemetery association not having a capital stock, heretofore or hereafter organized under any law in this state, which has acquired a burial site and sold lots therein, and the managing officers of which are all deceased or moved from the county in which said burial site is situated, or have for three years or more failed to act as such officers, may reorganize in the following manner. ('09 c. 165 § 1) [6302]

7596. Meeting of lot owners—Notice—Any three lot owners in said cemetery may issue a notice, signed by them, that a meeting will be held at a time and place to be fixed by them and designated in said no-

tice, in the said town or village nearest to said cemetery site, for the purpose of reorganizing said association. Such notice shall be published at least twice in a legal newspaper published in the city in which said meeting is to be held, and the time of said meeting shall not be less than ten days after the second publication thereof. ('09 c. 165 § 2) [6303]

7597. Meeting, how conducted—Election of officers—At the time and place mentioned in said notice the meeting so called shall be held. Any owner of one or more lots in said cemetery may be present in person or by proxy and shall be entitled to one vote at said and all subsequent meetings of the association. The meeting may be called to order by any lot owner and shall be organized by choosing in the usual manner a chairman and secretary. The said meeting shall thereupon proceed to elect a president, secretary, treasurer and three trustees. The officers so elected shall hold their offices until the next succeeding annual meeting of said association and until their successors are elected and have qualified. The voting at such meeting shall be by viva voce, unless otherwise ordered by those present at the meeting. A majority shall elect. ('09 c. 165 § 3) [6304]

7598. Certificate—Record—Effect—The chairman and secretary of said meeting shall within five days after said meeting is held prepare a certificate which shall set forth the existence of the facts mentioned in section one [7595] of this act. It shall further state that said meeting was held, giving the names of the chairman and secretary and the names of the lot owners present and voting, but if more than ten are so present and voting, the names of ten thereof shall be sufficient, but in such case the number of lot owners present and voting shall be stated. Said certificates shall also give the names of the persons elected as such trustees and other officers at such meeting and shall be recorded at length in the office of the register of deeds in and for the county in which such cemetery is located, and said certificate or the record thereof shall be prima facie evidence of all the facts stated therein and required to be so stated. ('09 c. 165 § 4) [6305]

7599. Powers and duties of officers—The officers so elected at such meeting shall as soon as said certificate is recorded, as provided in section 4 [7598] of this act, have power to convey and execute deeds for lots in said cemetery for cemetery purposes, and shall have the same powers and duties and be subject to the same rights and liabilities as they would be had they been elected in the manner originally provided by the law under which said association was organized or pursuant to the articles or by-laws thereof, and thereafter all meetings shall be held and all affairs of said association shall be conducted in the manner provided by law and under the original articles of incorporation of said association. ('09 c. 165 § 5) [6306]

7600. Sale of certain real estate—That any cemetery corporation which has been heretofore incorporated under the laws of the state of Minnesota may sell and convey, for other than burial or cemetery purposes, any real estate lawfully acquired by it, which is not suitable or fit for cemetery purposes, and which has not been platted for such purposes. ('11 c. 296 § 1) [6307]

7601. Same—Any public cemetery corporation which has been heretofore or may hereafter be incorporated under the laws of the state of Minnesota, and has acquired more than one hundred acres of land, may sell and convey, for other than burial or ceme-

tery purposes, any real estate in excess of such one hundred acres. Provided, that any such sale shall not include any land in which any interments have been made. Provided further, that any such sale shall be approved by the unanimous vote of all the trustees of such corporation. ('13 c. 444 § 1) [6308]

('11 c. 129 applies only to cities of the first class not under home rule charters).

7601-1. Plats of cemeteries in cities of first class—Filing with register of deeds—That in any case where a cemetery corporation, organized under the laws of this state is, or may be hereafter, maintaining and conducting a cemetery of more than eighty (80) acres in extent, in any city in this state having a population of more than fifty thousand (50,000) inhabitants, such corporation shall file in the office of the register of deeds, of the county in which its cemetery is located, a plat showing the area and location of such cemetery. ('11, c. 129, § 1) [6309]

Explanatory note—For Laws 1917, c. 95, see §§ 7614 to 7624, herein.

7601-2. Same—Subdivision or rearrangement of cemeteries—Such cemetery corporation may subdivide or rearrange its said cemetery from time to time as may be necessary in the conduct of the business, but no plat of such subdivision or rearrangement shall interfere with the rights and privileges of the several lot owners of such cemetery without their consent nor need same be filed in the office of the register of deeds, provided, that a plat of the same shall be kept for public inspection at such cemetery and provided, further, that there shall be placed at the corners of each lot of such subdivision or rearrangement, cement or other non-destructible markers three inches or more in diameter and 8 inches or more in length, one of such markers showing the number of the lot. ('11, c. 129, § 2) [6310]

7601-3. Same—Cities to which act applies—This act shall not apply to cities with charters adopted pursuant to section 36, article 4 of the constitution of this state. ('11, c. 129, § 3) [6311]

7602. Reorganization of certain associations—Any cemetery association, not having a capital stock, heretofore organized under any law of this state, which has acquired a burial site and sold lots therefrom, and the management of which association is confined to the original members of the association, either by the statutes then in force or the certificate of organization, may re-organize in the following manner: ('13 c. 526 § 1) [6312]

7603. Call for meeting—Any two or more of the original members of the association, or in case all of the original members are deceased, then any three or more of the lot owners in said burial site may issue a call for a meeting of the association to be held at a time and place designated in said notice, in the city or village nearest to said cemetery site, for the purpose of re-organizing said association. Such notice shall be published for two successive weeks in a legal newspaper printed in the place in which said meeting is to be held, and shall give at least thirty days' notice of such meeting. ('13 c. 526 § 2) [6313]

7604. Articles of re-association—At the time and place mentioned in said notice those present shall organize and proceed to prepare and adopt, or authorize to be prepared and adopted articles of re-association, which articles of re-association shall conform to the requirements of the general laws of this state for the organization of public cemetery associations, and shall

name the first board of trustees and such other officers as the meeting may determine, provided that a majority of said trustees and officers shall be first named and afterwards elected, from the members of the old association if there are sufficient survivors living in the county where the site is located or adjoining counties. ('13 c. 526 § 3) [6314]

7605. Powers and duties—The trustees and officers so named and elected shall, as soon as such certificate of re-association is adopted, and recorded with the register of deeds in the county where said cemetery is located, have all the powers and perform all of the duties and be subject to the same rights and liabilities as that provided by the general laws of the state of Minnesota pertaining to cemetery associations, and amendments thereof. ('13 c. 526 § 4) [6315]

7606. Certain corporations may amend articles—The board of trustees, board of administration or other governing body of any religious corporation which has established and is now maintaining a cemetery of more than five acres in extent in any county of this state now or hereafter having a population of not less than 225,000 or more than 350,000 inhabitants, may by resolution adopted by at least a two-thirds vote of its members at any authorized meeting of said board, amend its certificates or articles of incorporation in any or all of the following particulars:

(1) By providing for the management and conduct of the affairs of such cemetery by a board of associates, and prescribing the number composing such board of associates, the title by which they shall be designated, the time and manner of their election, by whom they shall be elected, their term of office, their powers and duties, and for the division of such board into classes, if it is so desired, with respect to the time for which they shall severally hold office.

(2) By specifying whether such board of associates shall be elected by the owners of lots in said cemetery, either from among themselves, or from among the board of trustees, or board of administration, or other governing body of said religious corporation, or by said board of associates from their own number, or from among the lot owners in said cemetery, or from the board of trustees or other governing body of said religious corporation.

(3) By specifying the names and addresses of the first board of associates and their term of office.

(4) By providing that any vacancy in said board of associates, caused by death, resignation or otherwise may be filled by said board of associates for the unexpired term.

(5) By providing that such board of associates may elect its own officers and that the duties of such officers may be defined by the by-laws of such board.

(6) By providing that such board of associates may adopt by-laws and promulgate rules and regulations with respect to the management and conduct of such cemetery.

(7) By providing that such board of associates may create, provide and establish a permanent fund, the income whereof shall be devoted to the care, maintenance and improvement of such cemetery to be known as a "Permanent Care and Improvement Fund."

(8) By providing that such board of associates shall have the care, custody and control of such "Permanent Care and Improvement Fund" and all other trust funds donated for the permanent care of particular burial plots; with authority in such board of associates to appoint trustees of such funds from among their number, or to designate and appoint as such trus-

tee, one or more trust companies organized under the laws of this state.

(9) By any other lawful provision defining and regulating the powers or business of such board of associates, and the powers and duties of its officers, trustees and lot owners in such cemetery. ('21 c. 422 § 1)

7607. Certificate of amended articles to be recorded—The board of trustees or other governing body of such religious corporation shall cause such resolution to be embraced in a certificate duly executed and acknowledged by its president and secretary or other presiding and recording officers under the corporate seal of said corporation, which said certificate shall be recorded in the office of the register of deeds of the county in which the cemetery of such association is located and in the office of the secretary of state. ('21 c. 422 § 2)

7608. To be private cemetery association—Every religious corporation which shall avail itself of the provisions of this act, and shall provide for the management and conduct of its cemetery as herein provided shall thereafter as to such cemetery be deemed in law a private cemetery association, and as such have all the rights, exemptions and privileges, and be subject to all the duties and liabilities provided by law in respect of private cemetery associations, and without regard to the fact that such cemetery is established by a religious corporation. ('21 c. 422 § 3)

7609. Association, how governed—Every religious corporation which shall avail itself of the provisions of this act, and shall establish a "Permanent Care and Improvement Fund" shall as to such fund be subject so far as not inconsistent herewith to the provisions of chapter 95 of the General Laws of Minnesota for 1917. ('21 c. 422 § 4)

7610. Cemetery associations permitted to amend articles of incorporation—The board of trustees of any cemetery association organized under the laws of this state which has established and is now maintaining a public cemetery in any city in this state having a population of more than fifty thousand inhabitants may by resolution duly adopted by at least a two-thirds vote of its members at any authorized meeting of said board, amend its certificate or articles of incorporation in any or all of the following particulars:

(1) By providing for a board of associates, the number composing such board, the time and manner of their election and by whom they shall be elected, their term of office, their powers and duties and for the division of such board into classes, if it is so desired, with respect to the time for which they shall severally hold office.

(2) By specifying the names and addresses of the members of the first board of associates and their term of office.

(3) By providing that the management of the affairs of the said association may be vested in a board of not more than nine trustees and that such trustees may be divided into classes in respect to the time for which they shall severally hold office, or, if it is so stated, that only one trustee need be elected each year.

(4) By providing the time and manner of election of the trustees and specifying whether such trustees shall be elected by the owners of lots in the cemetery of such association, either from among themselves or from among the board of associates, or by the existing trustees from among lot owners or from among a board of associates, or by the board of associates from their own number or from the retiring trustees.

(5) By providing that any vacancy in the board of trustees, caused by death, resignation or otherwise, may be filled by the board of trustees for the unexpired term.

(6) By specifying the names and addresses of the first board of trustees and the time for which they shall severally hold office.

(7) By providing that the trustees may elect officers of the association and that the duties of such officers may be defined by the by-laws.

(8) By providing that the trustees may adopt by-laws and promulgate rules and regulations with respect to the cemetery of such association.

(9) By any other lawful provision defining and regulating the powers or business of such association and the powers and duties of its officers, trustees, associates and lot owners. ('15 c. 304 § 1)

7611. How signed and filed—The trustees shall cause such resolution to be embraced in a certificate duly executed and acknowledged by its president and secretary or other presiding and recording officers under the corporate seal of said corporation, which said certificate shall be recorded in the office of the register of deeds of the county in which the cemetery of such association is located and in the office of the secretary of state. ('15 c. 304 § 2)

7612. Application—This act shall not apply to private cemeteries nor to cemeteries established by religious corporations. ('15 c. 304 § 3)

7613. Further application—This act shall also apply to cemetery associations mentioned in section 1 of this act maintaining such cemeteries in cities existing under a charter framed pursuant to section 36 of article IV of the constitution. ('15 c. 304 § 4)

7614. Permanent care and improvement fund—Cemetery associations maintaining public cemeteries in or adjacent to cities of over 50,000 to maintain—Every cemetery association heretofore or hereafter organized under the laws of this state which shall maintain a public cemetery in or adjacent to any city of this state having a population of more than 50,000 inhabitants, shall provide for the creation and establishment of a permanent fund, the income whereof shall be devoted to the care, maintenance and improvement of such cemetery, which fund shall be known as "Permanent care and Improvement Fund" of such cemetery association. ('17, c. 95, § 1; amended '27, c. 198, § 1, effective Dec. 31, 1927 by § 2)

7615. Trustees authorized to designate trust company for care of funds—The board of trustees of any such association shall by a resolution adopted by a vote of at least two-thirds of its members designate and appoint one or more trust companies organized under the laws of this state or a board consisting of at least three individuals to act as trustee or trustees of said fund. In case more than one trust company shall at any time be so designated and appointed the said board of trustees shall from time to time apportion all moneys available for said fund between said trust companies in such proportion as such board by said vote may direct or determine. Such designation and appointment shall be evidenced by a written instrument duly executed by the proper officers of such association under its corporate seal. Each trust company and individual so designated and appointed shall qualify as such trustee by filing its or his written acceptance of such designation and appointment with the secretary of the association. All instruments of designation and appointment, and any revocation of the same, and said written acceptances shall be recorded

at length by the secretary of the association in its corporate records. The appointment of any such trustee may be revoked by the board of trustees of the association at any time by a vote of two-thirds of its members. No trustee of such fund shall be liable as such except for neglect or wilful default in the discharge of its or his duties. ('17 c. 95 § 2)

7616. Same—Percentage of sale of lots to be paid into fund—Other additions to fund—Each such cemetery association shall take not less than 20 per cent for such fund of the proceeds of all sales hereafter of cemetery lots, which shall be paid over on the first days of January, April, July and October of each year to the trustee or trustees of said fund, and such payments shall thereafter become a part of such permanent care and improvement fund. Any other income or funds not required by such association for other purposes may from time to time be added to said fund by a vote of at least two-thirds of the members of the said board of trustees of the association. ('17, c. 95, § 3; amended '27, c. 198, § 1, effective Dec. 31, 1927, by § 2)

7617. Principal to remain inviolate and to be invested in certain securities—The principal of such permanent care and improvement fund shall forever remain intact and inviolate and shall be invested by the trustee or trustees in same class of securities only in which savings banks are authorized by the laws of this State to invest their funds, except that said association may by resolution adopted by vote of at least two thirds of the members of its board of trustees, at any authorized meeting of said board, authorize the withdrawal and use of not more than fifty per cent of the principal of such permanent care and improvement fund, for any or all of the following purposes, namely: for the acquisition of additional land for cemetery purposes for the erection of a chapel, greenhouse, or other buildings desirable or necessary for the operation of such cemeteries, or for the building or improvement of roads and avenues in such cemetery, provided, however, that said fund shall at no time be diminished to an amount less than one thousand dollars (\$1,000.00) per acre for each acre of land in such cemetery. Upon presentation to such trustee or trustees of a certified copy of the resolution adopted as aforesaid, such trustee or trustees shall at once comply therewith and thereupon be forever thereafter released and discharged from any and all further liability and responsibility for the part of such funds so withdrawn and delivered to such association. The trustee or trustees of such funds shall at least semi-annually turn over to the association the entire net income arising from such fund, which income shall be used by such association solely for the care, maintenance and improvement of the cemetery and the avenues leading thereto; but in case any portion of such income shall not be expended or appropriated by the association for the period of one year after the same has been received by it, it shall be turned back to the trustee or trustees and invested by it or them as a part of the principal of said fund. No trustee or board of trustees shall receive as compensation for acting as such any sum in each year in excess of five per cent of the income derived from the fund in its hands. ('17 c. 95 § 4, amended '23 c. 359 § 1)

7618. Trust Company to make annual report—Any trust company or board of trustees acting as trustees pursuant to the terms hereof shall on the first day of each year make a full and complete report in writ-

ing to the association of the condition and state of the fund in its hands, which report shall at all times be open to the inspection of all owners of lots in such cemetery. ('17 c. 95 § 5)

7619. Selection of successors to trustee—Upon the revocation of the appointment or resignation or removal of any sole trustee or individual appointed pursuant to the authority hereby conferred, the board of trustees of such association shall forthwith appoint a successor; and thereupon the trustee so resigning or removed shall immediately turn over to such successor all property of every description belonging to or appertaining to such fund. Upon written notice to it by such board of trustees of such association of the resignation or removal of any such trustee, or of any application to the court for an accounting by, or removal of, any such trustee, any bank, trust company, safety deposit company or other corporation, institution, or individual having in its or his possession any of the moneys, securities, papers or other property belonging or appertaining to such fund, shall thereupon refuse payment or delivery of the same or any part thereof to the trustee or trustees named in such notice, or upon its or their check or other authorization, except upon a check or other authorization for the transfer, surrender, or delivery of the same or any part thereof to its or his successor or successors. ('17 c. 95 § 6, amended '23 c. 359 § 2)

7620. District court given power to compel accounting—The district court for the judicial district in which the trust estate is situated shall have the power, for good cause shown, upon the application of one or more trustees of such association or of any other interested party to remove any trustee or trustees of such fund, or to compel an accounting by any trustee of such fund, and such court shall have all the powers now or hereafter conferred by law upon district courts for the enforcement, execution, or regulation of express trusts. ('17 c. 95 § 7)

7621. Cemetery associations to be bound by terms of this act—Every cemetery association mentioned in section 1 of this act which has heretofore created and established such permanent care and improvement fund pursuant to any law of this state shall with respect to such fund comply with and be bound by the terms of this act. ('17 c. 95 § 8)

7622. Sections G. S. 1913 inapplicable—Sections 6292, 6293, 6294, 6295, 6296, 6297, 6298, 6299, 6300 of the General Statutes of Minnesota, 1913, shall not apply to or be operative upon, cemetery associations mentioned in section 1 of this act. ('17 c. 95 § 9)

7623. Not to apply to religious or private cemetery associations—This act shall not apply to cemeteries established by religious corporations, nor to private cemetery associations. ('17 c. 95 § 10)

7624. Cities applicable—This act shall also apply to cemetery associations mentioned in section 1 of this act, maintaining such cemeteries in cities existing under a charter framed pursuant to section 36 of article IV of the constitution. ('17 c. 95 § 11)

7624-1. Conveyances of cemetery lots and lands to holding corporations legalized—Reconveyance to first class cities for cemetery purposes—In all cases where any person has heretofore executed a deed or other instrument of conveyance of any right, title or interest in any cemetery land or lot in a cemetery in this state to a corporation empowered to acquire, hold, and convey title to real estate, such conveyances are hereby legalized and shall have the effect of transferring and conveying to such corporation all right, title and

interest of the grantor therein, and such corporation shall by such conveyance, acquire all right, title and interest which the grantor had in such land and property, subject only to the limitations, if any, contained in such instrument of conveyance, and shall have the right to convey the same, for cemetery purposes to any city of the first class in this state including those organized and operating under a home rule charter adopted under the provisions of Section 36, Article 4 of the State Constitution and the state laws relating thereto. ('27, c. 96, § 1)

PRIVATE CEMETERIES

7625. Plat and record—Any private person and any religious corporation may establish a cemetery on his or its own land in the following manner: The land shall be surveyed and a plat thereof made. A stone or other monument shall be established to mark one corner of such cemetery, and its location shall be designated on the plat. Such plat and the correctness thereof shall be certified by the surveyor, his certificate indorsed thereon, and with such indorsement shall be filed for record with the register of deeds in the County where said cemetery is located showing the area and location of such cemetery. Any person or association owning such private cemetery may subdivide or re-arrange the same, from time to time, as may be necessary in the conduct of the business, but no plat of such subdivision or rearrangement shall interfere with the rights and privileges of the several lot owners of said cemetery without their consent, nor need same be filed in the office of the register of deeds; provided that a plat of the same shall be kept for public inspection at such cemetery; and provided further that there shall be placed at the corner of each lot of such subdivision or re-arrangement cement or other non-destructible markers three inches or more in diameter and eight inches or more in length, one of such markers showing the number of the lot. (R. L. '05 § 2960; G. S. '13 § 6316, amended '23 c. 360 § 1)

Omission to file plat defeats tax exemption (138-67, 163+978).

7626. Effect of recorded plat—When such plat has been recorded, every donation or grant of lands therein to the public, to any religious corporation, or to any individual, shall be deemed a conveyance of such lands, subject to the conditions and restrictions, if any, contained therein. Every conveyance of such lots shall be expressly for burial purposes, and the lands designated on the plat as streets, alleys, ways, commons, or other public uses shall be held by the owner of the cemetery in trust for the uses and purposes thereon indicated. (2961) [6317]

7627. Religious corporations may acquire existing cemeteries—Any religious corporation, or two or more together, may acquire by gift or purchase the cemetery lands and property of any cemetery association or private cemetery, and every such association, and the owner of any private cemetery, are hereby empowered to convey to religious corporations any cemetery land or property. (2962) [6318]

138-67, 163+978.

Rights as to place of burial. 159-331, 199+81.

7628. Conveyance of lots—Every religious corporation owning such cemetery may sell and convey lots therein for burial purposes only. Deeds thereof may be executed by the treasurers of such corporations, or by one or more of the trustees thereunto authorized

by resolution duly adopted by its board of trustees. (2963) [6319]

7629. Gifts authorized for proprietary care of lots in cemeteries—Gifts, grants and bequests of personal property to any trust company, or to one or more individuals and their successors, in trust for the purpose of perpetual care, maintenance and adornments of lots in private cemeteries and the walks, monuments and structures thereon are permitted. They shall not be deemed invalid as violating any existing law against perpetuities or suspension of the power of alienation; and in furtherance thereof any trust company or individual trustee and his successors may take and hold in trust the title to any one or more of such lots in such private cemetery in perpetuity. Provided, that nothing herein contained shall have the effect of legalizing any gift, devise or bequest which would otherwise be invalid under the laws of this state in any matter now pending in any court of this state or, which may be instituted within sixty days after the passage of this act. ('19 c. 22 § 1)

7630. Transfer to association—How effected—Any private cemetery established, platted and recorded under the laws of this state may consolidate with and transfer its property for cemetery purposes only, to any cemetery association or corporation organized under the laws of this state, which is contiguous to or adjacent to such cemetery corporation. To so consolidate and transfer its property it shall be necessary:

(1) That a resolution be passed by a two-thirds vote of the lot owners and members of such private cemetery, represented, present and voting at a special meeting called for that purpose, which resolution shall recite with what cemetery corporation or association it is proposed to consolidate with and transfer its property to, and the terms and conditions thereof. Thirty days' notice of such meeting shall be previously given to each lot owner of such private cemetery of the time and place when such meeting is to be held, reciting the purpose thereof, which notice shall be signed by at least five lot owners, and shall be served by publication by publishing for three successive weeks, once in each week, in some daily or weekly newspaper published in the county where such private cemetery is situated.

(2) That said resolution shall be signed and acknowledged by the presiding officer and secretary of such meeting and shall be filed with the register of deeds of the county in which such private cemetery is situated. ('05 c. 38 § 1) [6320]

7631. Effect of transfer—When such resolution shall have been passed and certified to by the presiding officer and secretary of such meeting and filed for record in the office of the register of deeds as aforesaid, and the terms and conditions of consolidation shall have been accepted by the board of directors or trustees of such cemetery corporation, such private cemetery shall become a part of such cemetery corporation or association, and subject thereafter to all the rules and regulations and laws governing such cemetery corporation or association. And it shall be lawful for the owners of such private cemetery to transfer and convey to such cemetery corporation or association all unsold lots in said private cemetery to said cemetery corporation or association to be used for burial purposes only, and any such conveyance heretofore made, is hereby legalized and such cemetery corporation or association shall hold in trust to and for the uses and purposes aforesaid, all streets, alleys, ways and commons, and the other public uses, in such private cemetery in lieu of the owner thereof.

Provided, that the provisions of this act shall not apply to any action or proceeding now pending in any of the courts of this state. ('05 c. 38 § 2) [6321]

7632. Damages—Discharge of firearms—Every person who shall wilfully destroy, mutilate, injure, or remove any tombstone, monument, or structure placed in any cemetery, or any fence, railing, or other work erected for protection or ornament, or any tree, shrub, or plant within the limits thereof, and every person who, without authority from the trustees or owner, shall discharge any firearms upon or over the grounds of any cemetery, shall be guilty of a misdemeanor. (2964) [6322]

7633. Exemptions—All lands, not exceeding one hundred acres in extent, and in the case of cemeteries owned and managed by religious corporations or corporations solely owned and controlled by and in the interest of any religious denomination three hundred acres in extent, so laid out and dedicated as a private cemetery, shall be exempt from public taxes and assessments, and shall not be liable to levy and sale on execution, or to be applied in payment of the debts of any owner thereof, so long as the same remains appropriated to the use of a cemetery; and no road or street shall be laid through the same without the consent of the owners. (R. L. '05, § 2965; amended '13, c. 137, § 1; '27, c. 295, § 3) [6323]

85-498, 506, 89+872.

Not common law or "de facto" dedication.

(138-67, 163+978; 193+171).

7634. Vacation—Change of name—Upon application of the owners of such cemetery, the district court of the county in which it is situate may alter or vacate the same or any part thereof, as in the case of town plats. Upon like application, and upon such notice as the court may direct, it may change the name of such cemetery. (2966) [6324]

FINANCIAL CORPORATIONS

GENERAL PROVISIONS

7635. Financial corporations defined—A bank is a corporation under public control, having a place of business where credits are opened by the deposit or collection of money and currency, subject to be paid or remitted upon draft, check, or order, and where money is advanced, loaned on stocks, bonds, bullion, bills of exchange, and promissory notes, and where the same are received for discount or sale; and all persons and copartnerships, respectively, so operating, are bankers. A savings bank is an institution under like control, managed by disinterested trustees solely authorized to receive and safely invest the savings of small depositors. A trust company is a corporation under like control, authorized, within prescribed limitations, to act as a safe deposit company, trustee or representative for or under any court, public or private corporation, or individual, and as surety or guarantor. A building and loan association is a corporation under like control, authorized solely to accumulate funds to be loaned to members to assist them in acquiring homes. (2967) [6325]

See Chapter 21 B., as to permit for organization.

7636. Bank and savings bank defined—Control of examiner—A "bank" is a corporation having a place of business in this state, where credits are opened by the deposit of money or currency, or the collection of the same, subject to be paid or remitted on draft,

check or order; and where money is loaned or advanced on stocks, bonds, bullion, bills of exchange or promissory notes, and where the same are received for discount or sale. A "savings bank" is a corporation managed by disinterested trustees, solely authorized to receive and safely invest the savings of small depositors. Every "bank" or "savings bank" in this state shall at all times be under the supervision and subject to the control of the public examiner, as provided by section 2968 of the Revised Laws [7640] relating to financial corporations, and when so conducted said business shall be known as "banking." ('07 c. 111 § 1, amended '09 c. 103 § 1) [6326]

Supervision and control of banks by department of banking see supra, § 5230, and note thereunder. Powers transferred to commissioner of banks, see supra 5323. Office of public examiner abolished, and powers, etc., transferred to Comptroller, see supra, § 53-44.

All institutions using name of "bank" must be incorporated (Ops. Atty. Gen. 1910 Nos. 31, 32; 1911-12 Nos. 19, 21).

7637. Word "bank" not to be used unless inspection permitted—Any person, firm or corporation carrying on in this state the business, or any part thereof, defined as "banking" in the preceding section, who refuses to permit the public examiner to inspect and superintend said business, and to see that the same is carried on in accordance with the banking laws of this state, shall not be permitted to use the word "bank" as the whole or any part of the business name of the place where said business is carried on, nor shall the word "bank" be used on any stationery or in any advertisement of said business, as the whole or any part of the name or description of said business. ('07 c. 111 § 2) [6327]

7638. Penalty—Whoever violates the provisions of this act shall be guilty of a misdemeanor. ('07 c. 111 § 3) [6328]

7639. Trust companies not included—None of the provisions of this act shall apply to corporations organized under the trust company laws of this state. ('07 c. 111 § 4) [6329]

7640. Supervision by examiner—Every financial corporation shall be at all times under the supervision and subject to the control of the public examiner. At least annually, and as much oftener as he deems it necessary, without previous notice, such examiner, his deputy or assistant, shall visit and examine the business and offices of every such corporation, verify its books, vouchers, and papers, and ascertain its financial condition and ability to perform its functions and fulfill its obligations, and wherein, if at all, it has violated any provision of law, and determine what, if any, further action shall be taken in the premises. For the purpose of making such examination he is authorized to enforce the attendance as witnesses of persons whose testimony is desired, and the production of books and papers, by subpoena or attachment, and may administer oaths to witnesses and compel them to testify. If the examiner is of opinion that the further operation of such corporation is hazardous to public interests, he shall forthwith take possession of its property, and report the matter to the governor for appropriate action. (2968) [6330]

7641. Voluntary liquidation—Any such corporation, by a majority vote of its directors, or a vote of three-fourths of its stock at any regular or special meeting of its stockholders, with the written consent of the public examiner, may voluntarily go into liquidation. Notice of such vote and of the consent of the examiner shall be served by mail upon each stockholder at his last recorded address. Subject to the approval and

under the direction of the examiner, such corporation may adopt any lawful plan for closing up its affairs, as nearly as may be in accordance with its original plans and objects. (2969) [6331]

Optional with stockholders whether to liquidate or assess capital stock (145-342, 177+461).

7642. Unclaimed dividends on liquidation—Upon the liquidation of any such corporation, whether voluntary or by order of court, if any dividends or any moneys set apart for the payment of claims remain unpaid, and the places of residence of the owners thereof are unknown to the liquidating officer, he may pay the same into the state treasury as hereinafter provided. Whenever the public examiner shall be satisfied that the process of liquidation should not be further continued he may require the receiver or other liquidating officer to make and certify quadruplicate lists of any such unclaimed dividends or other moneys, specifying the name of each owner, the amount due him and his last known address. Upon one of such lists, to be retained by the liquidating officer, the examiner shall indorse his order that such unclaimed moneys be forthwith deposited in the state treasury. When so deposited, one of said lists shall be delivered to the state treasurer and another to the state auditor and the liquidating officer shall file with the examiner such records and proofs concerning said claims as he may have, which shall thereafter remain on file in the examiner's office. The treasurer shall execute upon the list retained by the liquidating officer a receipt for such moneys, which shall operate as a full discharge of such officer on account of such claims. At any time within ten years after such receipt, but not afterward, the claimant may apply to said examiner for the amount so deposited for his benefit, and upon proof satisfactory to the governor, the attorney general and the examiner, or to a majority of them, they shall give an order to the auditor to issue his warrant upon the treasurer for such amount, and such warrant shall thereupon be issued. If no such claim be presented within ten years the examiner shall so note upon his copy of said list and certify the fact to the auditor and treasurer who shall make like entries upon the corresponding lists in their hands; and all further claims to said moneys shall be barred. (2970) [6332]

7643. Consolidation—Any such corporation in course of liquidation may, with the consent of the public examiner, consolidate with any other like corporation, upon such terms as may be authorized by their respective boards of directors, with the consent of a majority of the stock, and may transfer to such corporation its entire assets, subject to its existing liabilities. (2971) [6333]

7644. Selection of name—Before execution of the certificate of incorporation of any such corporation, its proposed name shall be submitted to the public examiner, who shall compare it with those of corporations operating in the state, and if it is likely to be mistaken for any of them, or to confuse the public as to the character of its business, or is otherwise objectionable, additional names shall be submitted until a satisfactory one is selected, whereupon he shall issue his certificate of approval thereof. (2972) [6334]

7645. Certificate, how accompanied—The certificate of incorporation, when presented to the examiner, shall be accompanied, in the case of a bank, with the certificate of a solvent bank in this state of the deposit therein in cash to the credit of the proposed bank, and payable upon its order when countersigned by the examiner, of an amount equal to its capital stock. In the case of a reorganization of a former national bank, it

shall also be accompanied with the written consent of the holders of a majority of its former capital stock. In the case of a savings bank, it shall be accompanied with proof of four weeks' published notice of the intention of the incorporators to organize the same, specifying its proposed name and location, and the names of the proposed incorporators, and that a majority thereof reside in the county of its proposed location, and a sworn declaration by each proposed trustee that he will perform his duties as such to the best of his ability, according to law, with proof of the record of such declaration with the register of deeds; and if there is a savings bank organized and doing business in such county a copy of such notice shall be served by mail on such bank at least fifteen days before the filing of such certificate. (2973) [6335]

145-126, 176+347.

7646. Examiner's certificate—Thereupon, if the examiner is satisfied that such corporation has been organized for legitimate purposes, and under such conditions as to merit and have public confidence, and that all provisions of law applicable to every branch of business in which, by the terms of its certificate, it is authorized to engage have been complied with, he shall so certify. When the original certificate, with proof of publication thereof, and the certificate of the secretary of state to the regularity of its incorporation, shall be filed with the examiner, he shall, within sixty days thereafter, execute and deliver to it his certificate of authority. (2974) [6336]

7647. By-laws to be filed with examiner—Within ninety days after the adoption of by-laws or any amendment thereof, a certified copy of the same shall be filed with the public examiner. Every such corporation heretofore organized shall file such copy within ninety days after the Revised Laws take effect. (2975) [6337]

7648. Right to acquire and hold real estate—Save as otherwise specially provided, the entire cost of land and buildings for the transaction of the business of such a corporation, including premises leased to others, shall not be more than as follows, assets other than cash being taken at cash market value: For a bank or a trust company, twenty-five per cent of its existing capital and surplus; for a savings bank, fifty per cent of its net surplus; for a building and loan association, five per cent of its net assets. Any such corporation may change its location, dispose of its place of business, and acquire another, upon the written approval of the examiner. (2976) [6338]

165-121, 205+951.

7649. State banks or trust companies may become members of the Federal Reserve banks—Any incorporated state bank or trust company may become a member of the Federal Reserve bank of the Federal Reserve district in which said bank or trust company is located and may invest in and hold stock therein. ('15 c. 28 § 1)

7650. Schedule of fees—All banks organized under the laws of this state shall pay annually, on or before June 30, into the state treasury, the following sums: Those having a paid-up capital of fifty thousand dollars or less, ten dollars; or [of] more than fifty thousand dollars and not exceeding one hundred thousand dollars, twenty dollars; or [of] more than one hundred thousand dollars and not exceeding three hundred thousand dollars, twenty-five dollars; of more than three hundred thousand dollars and not exceeding four hundred thousand dollars, thirty-five dollars; of more than four hundred thousand dollars and not ex-

ceeding five hundred thousand dollars, forty dollars; of more than five hundred thousand dollars and not exceeding six hundred thousand dollars, fifty dollars; and of more than six hundred thousand dollars, seventy-five dollars. All trust companies so organized shall so pay the following sums: Those having a paid-up capital of one hundred thousand dollars and not exceeding two hundred thousand dollars, twenty-five dollars; of more than two hundred and fifty thousand dollars and not exceeding four hundred thousand dollars, forty dollars; of more than four hundred thousand dollars and not exceeding five hundred thousand dollars, fifty dollars; and of more than five hundred thousand dollars, seventy-five dollars. All general building and loan associations shall so pay for the first one hundred thousand dollars of their assets, or fractional part thereof, twenty dollars; for the next five hundred thousand dollars, ten dollars for each one hundred thousand dollars or fractional part thereof and for the excess of over six hundred thousand dollars, five dollars for each one hundred thousand dollars or fractional part thereof. All building and loan associations shall so pay a fee of ten dollars. All savings banks organized under the laws of this state shall so pay the following fees: Those having assets of two hundred and fifty thousand dollars or less, ten dollars; of more than two hundred and fifty thousand dollars and not exceeding five hundred thousand dollars, twenty dollars; of more than five hundred thousand dollars and not exceeding one million dollars, thirty dollars; of more than one million dollars and not exceeding five million dollars, fifty dollars; of more than five million dollars, five dollars additional for each additional one million dollar or fractional part thereof. (R. L. § 2977, amended '07 c. 415 § 1) [6339]

7651.—Trust companies given power to establish a savings department.—No individual, co-partnership or corporation other than a savings bank or safe deposit and trust company subject to and complying with all the provisions of law relating to such bank or safe deposit and trust companies respectively, shall in any manner display or make use of any sign, symbol, token, letterhead, card, circular, or advertisement stating, representing or indicating that he, it, or they, are authorized to transact the business which a savings bank, safe deposit or trust company usually does, or under said provision are authorized to do; nor shall any such individual, co-partnership or corporation use the words "savings" or "trust" or "safe deposit" alone or in combination in title or name or otherwise or in any manner solicit business or make loans or solicit or receive deposits or transact business as a savings bank or safe deposit or trust company. Except that a state bank, or trust company, regularly incorporated and authorized to do business under the laws of this state, may establish and maintain a savings department under the supervision of the superintendent of banks, and may solicit and receive deposits in said savings department and advertise the same as such, and every such trust company having a savings department may use in its name or title in addition to the word "trust," the words "savings" or "savings bank." Savings deposits received by any such trust company using the words "Savings" or "Savings Bank" in its name or title shall be invested only in authorized securities as defined by law and such trust company shall keep on hand, at all times, such securities as deposits in savings banks may be invested in to an amount at least equal to the amount of such deposits and these securities shall be the representative of and the fund for, applicable first and exclusively to the payments of, such savings de-

posits. Deposits received by such trust company subject to its right to require notice of withdrawal evidenced by pass books shall be deemed savings deposits.

Every individual, co-partnership or corporation which shall violate any of the provisions of this section shall forfeit to the state the sum of one hundred dollars for every day such violation shall continue. (R. L. '05 § 2978, amended '09 c. 178 § 1; '15 c. 236 § 1) [6340]

7652. Failure to report—Forfeitures.—Every corporation which shall fail to make and transmit to the public examiner, within ten days after the time prescribed by law therefor, any report required by the provisions of this chapter or by other lawful authority, or shall fail to include therein any matter required by such examiner, shall forfeit to the state the sum of one hundred dollars for every day that such report is withheld or delayed or that it shall fail to report any such omitted matter. (2979) [6341]

7653. Notice of meetings.—At least thirty days prior to any annual, and at least ten days prior to any special meeting of its stockholders, mailed notice shall be given to each stockholder, specifying the time, place, and purpose thereof; also a notice of any resolution or proposition on which action is proposed to be taken. (2980) [6342]

7654. Violations of requirements.—Every officer, agent, or employe of any corporation or co-partnership, and every other individual who shall knowingly and wilfully do or omit anything, the doing or omission of which on the part of any corporation, co-partnership, or individual is in violation of any of the provisions of this subdivision, and who continues or repeats such act or omission for or during more than ten successive days, shall be guilty of a felony. (2981) [6343]

The statute (R. L. 1905, § 2981; G. S. 1923, § 7654), is so indefinite and uncertain that it cannot be held to apply to R. L. 1905, § 2993 (G. S. 1923, § 7677). 212+528.

7655. Companies subject to this subdivision.—All companies, associations, and corporations organized under any law of this state, other than those relating to the organization of banks and trust companies, which assume or exercise any of the functions, powers, or privileges conferred upon banks or trust companies under this subdivision, shall be subject to all the limitations, penalties, and requirements incident or pertaining to such functions, powers, or privileges; and the stockholders or persons forming the same shall be liable in the same manner and to the same extent as if such companies, associations, and corporations were organized as banks or trust companies under this chapter. (2982) [6344]

7656. Financial institutions to file articles with superintendent of banks.—All persons proposing to incorporate and organize any financial institution, whether defined or described as such by the laws of the state of Minnesota, shall, before doing any business in the state as a corporation, and before filing their articles of incorporation with the secretary of state or with any other officer with whom the law requires such articles to be filed or recorded, file a copy of such articles with the superintendent of banks. ('11 c. 323 § 1) [6345]

7657. Advertising capital as greater than amount of actual paid in capital.—Other advertisements as to financial responsibility.—No such financial institution shall advertise as its capital any amount other or greater than the amount of actual paid in capital, which it shall have at the time of the appearance of such advertisement, and no such financial institution

shall advertise in any way the aggregate or individual responsibility or financial worth of its stockholders, or in any manner seek to convey the impression that the financial resources of its stockholders above the limit provided by law are available for the purpose of meeting its liabilities. ('11, c. 323, § 2; amended '25, c. 169) [6346]

7658. Qualifications and election of officers of corporations—The directors of all financial institutions, without respect to their kind or character, who are required, under the provisions of its articles of incorporation, to elect a vice-president, are hereby forbidden to elect any other person than a member of the board of directors or other such governing body as vice-president of such institution. Provided, however, that if the articles of incorporation of any such financial institution provide for the election of more than one vice-president, so long as there is at least one vice-president fully qualified and acting who is a member of the board of directors or other such governing body, additional vice-presidents may be elected from stockholders or members of the corporation other than members of the board of directors or of such governing body. ('11 c. 323 § 3; '21 c. 90 § 1) [6347]

BANKS

Assessments against stockholders by commissioner, see 7699-20 to 7699-24, herein.

Consolidation, see §§ 7699-5 to 7699-11, herein.

Deposits limited, see §§ 7699-12, 7699-13, herein.

Officers, appointment, etc., see § 7699-4, herein.

Pledges, loans, borrowing money, etc., see §§ 7699-14 to 7699-19, herein.

Stay of proceedings against banks in possession of commissioner, see §§ 7699-25 to 7699-29, herein.

7659. Capital and surplus required—Prepayment of capital—The capital of every bank of discount and deposit hereafter organized shall be at least \$20,000 and a surplus of at least \$4,000 in a municipality of not over one thousand population, and at least \$25,000 and a surplus of at least \$5,000 in one over one thousand and not over 5,000, and at least \$40,000 and a surplus of at least \$8,000 in one over 5,000 and not over 100,000, and at least \$50,000 and a surplus of at least \$10,000 in one over 100,000; provided, however, that the Securities Commission in their discretion may permit the organization of a bank with \$10,000 capital and a surplus of \$2,000 in a municipality with a population of less than five hundred wherein there is no bank; and payment thereof shall be made in full in cash and certified to the commissioner of banks under oath of the president and cashier before it shall be authorized to commence business. (2983) [6348] (Amended '27, c. 366)

7660. Special powers—In addition to the inherent and granted powers of corporations in general, such banks shall have power to exercise by its board of directors, or duly authorized officers and agents, subject to law, all such powers as shall be necessary to carry on the business of banking by discounting bills, notes, and other evidences of debt, by receiving deposits, by buying and selling gold and silver bullion, foreign coin, promissory notes, mortgages, and other evidences of debt, and foreign and inland bills of exchange, by lending money on real and personal securities and receiving interest on any of the same in advance, and by exercising all the usual and incidental powers and privileges belonging to such business; but it shall not transact any business except such as is incidental and

necessarily preliminary to its establishment, until authorized by the public examiner to commence business. (2984) [6349]

23-198; 68-409, 411, 71+621.

Right of corporations to test validity of stock issue.

(124-280, 144+952).

165-121, 205+951; 209+631; 210+998.

A cashier of a bank has power to take a mortgage on personal property to secure the payment of debts owing to his bank, and upon default in the conditions of the mortgage, to make arrangements with the mortgagor for the possession and care of the cattle on behalf of the bank. 162-118, 202+338.

The cashier is regarded as an executive agent of a bank, for whose acts, while engaged in its affairs, the bank is liable to the same extent that individuals are liable under like circumstances. 162-118, 202+338.

A bank may engage in such business as is necessary to preserve property upon which it holds a lien, and, where the same is undertaken in an effort to save the security, it is not ultra vires. 162-118, 202+338.

7661. Application—Any state bank having a capital of not less than fifty thousand dollars and having its principal place of business in any municipality of less than twenty-five thousand inhabitants; and any state bank having a capital of not less than seventy-five thousand dollars and having its principal place of business in a municipality of twenty-five thousand or more, but less than one hundred thousand inhabitants; and any state bank having a capital of not less than one hundred thousand dollars and having its principal place of business in a municipality of one hundred thousand or more, but less than two hundred thousand inhabitants; and any state bank having a capital of not less than two hundred thousand dollars and having its principal place of business in a municipality of two hundred thousand inhabitants or more, may exercise the powers and privileges conferred by this act, in addition to all other powers granted by law, upon complying with the conditions and requirements of this act. ('23 c. 274 § 1)

7662. To get certificate from superintendent of banks—In order to exercise the powers herein conferred, any such bank shall invest and keep invested in one or more of the first, second, third, fourth, seventh and eighth classes of authorized securities, at least fifty per cent of its capital if its capital be less than two hundred thousand dollars, or at least twenty-five per cent of its capital if its capital be two hundred thousand dollars or more, which securities in the amounts above provided shall be duly assigned, transferred to and deposited with the superintendent of banks, and shall be maintained unimpaired as a guaranty fund for the integrity of its trusts and for the faithful discharge of its duties, in connection therewith, with the right to the bank to collect the income thereof and to substitute other like authorized securities of equal amount and value. The superintendent of banks shall carefully examine the securities offered for deposit, and if they comply with all the provisions of law applicable thereto, and if the bank making such deposit shall possess the qualifications stated in section 1 of this act, he shall issue to such bank a certificate stating that it is qualified to exercise the powers herein conferred, and upon the issuance of such certificate and while the same remains in force, such bank may exercise the powers and privileges conferred by this act.

In case of any increase in the capital of any bank which has qualified hereunder, such certificate shall be and become revoked, and such bank shall not thereafter exercise the powers herein conferred until it shall have deposited the required proportion of its capital in authorized securities and received a new certificate that it is qualified hereunder. ('23 c. 274 § 2)

7663. Powers and duties—Any such bank which has complied with the terms of this act and holds a certificate as above provided may exercise the following powers and privileges:

FIRST. It may take and hold in trust any real or personal property, wherever situated, by order, judgment or decree of any court, or by gift, grant, assignment, transfer, devise, legacy or bequest from, or by lawful contract, with, any public or private corporation or any individual or co-partnership, and manage the same upon the terms and conditions therein declared or imposed; it may act as agent for the signature, countersignature, registration, transfer or redemption of certificates of stock, bonds, coupons or other evidences of indebtedness, and as trustee under mortgages in the form of trust deeds, and may otherwise act as general or special agent or attorney in fact in the acquisition, management, sale, assignment, transfer, encumbrance, conveyance, or other disposition of any real or personal property, in the collection of rents, payment of taxes, and generally as the representative of any person, corporation, or co-partnership; it may guarantee the title to securities sold and transferred by it.

SECOND. It may take and hold on deposit or for safe keeping, money, bonds, stocks, or other securities, or personal property, which any public officer or any trustee or other legal representative or any public or private corporation or any person may desire or may be authorized, ordered, or otherwise required by law to deposit in a safe depository or to pay into any court of record, and the same may, instead thereof, be deposited with such bank, and where the deposit is made pursuant to order of court in such bank as the court shall designate and depositor takes the receipt of such bank therefor, thereupon the depositor and his sureties shall be relieved from liability thereafter accruing on account thereof so long as such deposits continue.

THIRD. It may act as assignee under any assignment for the benefit of creditors, or be appointed as a trustee, receiver, guardian, executor or administrator, and may accept and perform any other lawful trust conferred by any court or by any corporation or individual. In the acceptance and performance of any such trust no oath or security shall be required.

FOURTH. Whenever any judge or court having jurisdiction deems it expedient, such judge or court may direct any executor, administrator, guardian, assignee, receiver, or other trustee to deposit with such bank any securities belonging to the trust subject to the order of such trustee when countersigned by the judge of such court, and the court may fix the security to be given by such trustee with reference only to the remainder of the trust estate. No such securities shall be withdrawn nor any part of the principal or interest thereof collected except by an officer of such bank without the order of a judge of such court duly entered and certified, upon satisfactory proof that additional security has been furnished by the trustee or that the estate or fund has been so reduced that such deposit is no longer required.

FIFTH. It may invest all moneys received by it in trust, in authorized securities, and shall be responsible to the owner or cestui que trust for the validity, regularity, quality, value and genuineness of such investments and securities at the time made and for the safe keeping of such securities and the evidences thereof. Whenever special directions are given in any order, judgment, decree, will or other written instrument, as to the particular manner or the particular class or

kind of securities or property in which any investment shall be made, it shall follow such direction, and in such case it shall not be further responsible by reason of the performance of such trust.

It may, in its discretion, retain and continue any investment and security or securities coming into its possession in any fiduciary capacity. For the faithful performance of its duties and the discharge of its trust, it shall be entitled to reasonable compensation or such amount as has been or may be agreed upon by the parties and all necessary expenses with legal interest thereon.

No compensation or commission paid or agreed to be paid to it for the negotiation of any loan or the execution of any trust shall be deemed interest within the meaning of the law, nor shall any excess thereof over the legal rate be deemed usury.

SIXTH. Any amount not less than one hundred dollars received by it as representative or trustee or by order of the court not required for the purposes of such trust and not to be accounted for within one year, it shall invest as above provided in authorized securities then held by it or specially procured by it.

SEVENTH. It may invest its funds in authorized securities as defined by law, and the provisions of section 6358 of the General Statutes of 1913 [7677], limiting the amount of liability of any person, corporation, or co-partnership, with reference to a percentage of the capital and surplus of such bank, shall not apply to its investments in authorized securities. ('23 c. 274 § 3)

An agreement by a state bank which submits proposed farm mortgage loans to a lender receiving its commission from the borrower, that it will take the mortgages if within a year it is found that the application was not correct as to character of land or improvements is ultra vires; and a subsequent guaranty of such a note, given upon complaint of the lender that the land was not as represented, is ultra vires 210+998.

7664. To keep record of trust accounts—Besides its general books of account, it shall keep separate books of account for all trust accounts. All funds and property held by it in a trust capacity shall at all times be kept separate from its own funds and property, and all trust funds deposited or held in trust by the bank awaiting investment shall be carried in a separate account, and shall not be used by the bank in the conduct of its business, and all deposits made by it of such trust funds in any other banking institutions shall be deposited as trust funds, to its credit as trustee, and not otherwise. Every security in which trust funds are invested shall at once, upon receipt thereof, be endorsed or transferred to it as executor, administrator, guardian, receiver, assignee, or other trustee, as the case may be, and not in blank or otherwise, and immediately entered in the proper books as belonging to the particular trust whose funds have been invested therein. Any change in such investment shall be fully specified in and under the account of the particular trust to which it belongs so that all trust funds and property can be readily identified at any time by any person. It shall be unlawful for any bank to lend any officer, director or employe any funds held in trust, under the powers conferred by this act. Any officer, director or employe to whom such a loan is made shall be guilty of larceny of the amount of such loan from the time of the making thereof. ('23 c. 274 § 4)

7665. Shall be subject to orders of court—Every such corporation shall be subject at all times to the orders of any court from which it shall have accepted any trust or appointment, and shall render to such court such itemized and verified accounts and reports

as may be required by law or the court. In addition to other reports required by law, it shall render to the superintendent of banks, at such times as he may direct, full and itemized reports of investments, trust funds and other business performed under the provisions hereof, and a condensed statement of such report, either separately stated or consolidated with the other reports required of it by law, shall be published as required by law. ('23 c. 274 § 5)

7666. Corporate name—Any such bank which has qualified and obtained a certificate as provided in this act, may use in its corporate name or title, in addition to the word "bank" or other words now permitted by law, the words "trust" or "trust company" and may display and make use of signs, symbols, tokens, letterheads, cards, circulars and advertisements stating or indicating that it is authorized to transact the business authorized by this act, and any such bank using the words "trust" or "trust company" is not required to use the word "state" in its corporate name. ('23 c. 274 § 6)

7667. Banks may be designated as savings banks—Any state bank which has qualified under this act and obtained the certificate herein provided, and which has established and maintains a savings department, may use in its name or title, in addition to other words permitted by law, the words "savings" or "savings bank." Savings deposits received by any such state bank using the words "savings" or "savings bank" in its corporate name or title, shall be invested only in authorized securities as defined by law, and such bank shall keep on hand at all times, in addition to the securities required to be deposited under the provisions of section 2 hereof, such securities as deposits in savings banks may be invested in to an amount at least equal to such savings deposits, and such securities to the amount of such deposits shall be representative of and the fund for and applicable first and exclusively to the payment of such savings deposits. Deposits received by such bank subject to its right to require notice of withdrawal evidenced by pass books, shall be deemed savings deposits. ('23 c. 274 § 7)

7668. May cease operations—Duties of superintendent of banks—Any state bank which has qualified hereunder may at any time notify the superintendent of banks in writing that it intends to cease to operate under the provisions of this act, and thereupon the certificate issued to it as above provided shall be cancelled and revoked, and such bank shall thereafter exercise no power or privilege except those permitted to state banks, which have not qualified hereunder, and the securities deposited with the superintendent of banks as provided in section 2 hereof shall forthwith be reassigned and returned to such bank; provided, that no part of such deposited securities shall be so returned until such bank shall have eliminated from its corporate name the words "trust," "trust company," or "savings," nor until it has ceased to hold any trust or trust office authorized by this act, nor until all its accounts in any such trust shall have been settled and allowed and all property held in trust by it delivered to the persons entitled thereto, nor until all liabilities incurred by it as trustee, agent, or otherwise, under the provisions of this act, and which it could not have incurred unless qualified hereunder, shall have been discharged; provided further, that if the amount of all such liabilities or the maximum limit thereof has been or can be definitely ascertained, the superintendent of banks may retain only such part of the deposited securities as shall be at least equal to and as shall be in his opinion sufficient to liquidate the same. If any

such bank so surrendering its powers hereunder shall have heretofore used the word "savings" in its corporate name, the provisions of section 7 hereof, relating to the investment of savings deposits and the rights of such depositors, shall remain operative as to all savings deposits on hand at the date of surrendering such certificate and until such savings deposits shall have been paid to the persons entitled thereto. ('23 c. 274 § 8)

Sections 2 and 7 are §§ 7662, 7667, herein.

7669. Stock list—Filing—Effect of transfer—Liability of stockholders—Acceptance of act—Its president and cashier shall at all times keep an accurate verified list of all its stockholders, with the amount of stock held by each, the dates of all transfers and names of transferees, and on May 1 annually file a copy thereof with the register of deeds and the examiner. The stockholders in each bank of discount and deposit shall be individually liable in an amount equal to the amount of stock owned by them for all the debts of such bank and for all transactions prior to any transfer thereof. Every person becoming a stockholder shall succeed in proportion to his interest to all the rights and become subject to all the liabilities of his transferrers; but the liability of the latter shall continue for one year after the entry of such transfer, and shall be over and above the stock owned by the stockholders in such corporation and any amount paid thereon. Any bank heretofore organized under this chapter may come under the provisions of this section as to the liability of its stockholders by amending its articles so as to declare that it adopts and agrees to be subject to this act as to all of its liabilities. Such amendment shall be adopted and published in the same manner as the original articles. All banks of discount and deposit which do not so amend their articles and become subject to this act within six months after its passage shall thereafter use upon their letterheads and all stationery and advertising matter the words: "Stockholders in this bank subject to single liability only." (R. L. § 2985, amended '07 c. 137 § 1) [6350]

Transferrer only secondarily liable during year. Execution must first issue against transferee (66-487, 69-610, 1069). Bona fide transferrer not liable for debts incurred after transfer (62-152, 64-145). Liability terminates in a year though no transfer on books if there was a bona fide attempt to secure such transfer (91-264, 98-91). Continuation of liability pending reorganization under 1897 c. 89 § 4 (87-68, 91-259). Reduction of double liability to single by 1895 c. 145 (79-211, 81-1059). Effect of extension of debt on transferrer. Nature of transferrer's liability considered (66-487, 69-610, 1069). Liability enforceable by receivers under § 6363 (70-358, 73-171). Stockholder liable on stock held in his name as collateral security (70-398, 73-153). Liability extends to debts incurred before and after acquisition of stock (7-56, 40; 57-552, 59-635). Liability not enforceable in insolvency proceedings under 1881 c. 148 (57-552, 59-635. See 53-434, 59-1077). Cited (79-211, 220, 81-1059; 102-199, 113-268). Stockholders of banking corporation which is not a bank of issue or circulation are liable under Const. art. 10 § 3 (112-76, 127-386). On insolvency and proceedings for sequestration within year after transfer of stock, cause of action arises in favor of creditors against transferrer (112-76, 127-386).

1895 c. 145 § 5 cited (106-446, 119-61).

To entitle the superintendent of banks to recover an assessment against a stockholder in an insolvent bank, who transferred his stock in good faith within a year prior to the time of the superintendent's taking charge, it must appear that the debts for which the assessment was made existed at the time of the transfer and still exist. 166-438, 208-129.

7670. Directors—Designation—Quorum—Qualifications—Oath—Whenever the number of directors shall exceed nine, they may designate, semi-annually, by resolution, nine of their number, a majority of whom shall constitute a quorum for the transaction

of business. Every director of a bank whose capital is twenty-five thousand dollars or more shall actually own at least one thousand dollars of full paid stock, and in those with a capital less than that sum at least five hundred dollars, and shall take and subscribe an oath that he is the owner in good faith and in his own right of such amount of stock, that the same is not in any way pledged for any loan or debt, and that he will faithfully perform his official duties, and not knowingly violate or permit to be violated any provision of law. The taking of such oath shall be duly certified in the minutes of the records of the bank, and the oath immediately transmitted to the Commissioner of Banks and filed in his office. (2986) [6351] (Amended '27, c. 260, § 1, effective Jan. 1, 1930 by § 2)

7671. Dividends—Surplus—At the end of each dividend period, after deducting all necessary expenses, losses, interest, and taxes due or levied, one-fifth of the remaining net profits for such period shall be set aside as a surplus fund until it equals one-fifth of the capital stock. The directors may then declare a dividend of so much of the remainder as they think expedient. Whenever in any way impaired, such surplus fund shall be raised to such percentage in like manner. (2987) [6352]

7672. Examining committee—Such board shall annually appoint from its members an examining committee, who shall examine its condition semi-annually, and oftener if required. They shall forthwith make in duplicate a verified detailed report of all assets carried on the books in excess of the actual value thereof, specifying the latter, and deliver the same to the cashier, who shall forthwith transmit one copy to the examiner and duly record the other. (2988) [6353]

7673. Restrictions on directors and officers as to use of bank funds and dealings with bank—No director shall directly or indirectly, in any manner, use the funds of the bank or any part thereof except in its regular business transactions, and every loan made to any of its directors, officers, servants, or agents shall be upon the same security required of others and in strict conformity to its rules and regulations. Every such loan shall be made by the board and acted upon in the absence of the applicant. No cashier or other officer or employee of a bank shall sell to such bank, directly or indirectly, any mortgage, bond, note, stock, or other security whatsoever without the written approval of the board of directors filed in the office of the bank or embodied in a resolution adopted by such board. A copy of such written approval or resolution shall immediately be sent to the State Superintendent of Banks. (2989) [6354] (Amended '25, c. 305)

Cited (119-459, 138+682).

7674. Reports to public examiner—At least four times in each year, and at any other time when so requested by the public examiner, every bank shall within seven days make and transmit to him, in such form and within such time as he shall prescribe, a report verified by its president or vice-president, and by its cashier, and attested by at least two of its directors, stating in detail, under appropriate heads, its assets and liabilities at the close of business on the day specified in such request, if upon special request; otherwise on the last business day of the preceding month. Such statement shall be published once at the expense of such bank in a newspaper of the county of its location, and proof thereof filed immediately with the examiner. (2990) [6355]

7675. Books to be kept—Every such bank shall open and keep such books and accounts as the examiner may prescribe, for the purpose of keeping accurate and convenient records of its transactions; and every bank refusing or neglecting so to do shall forfeit ten dollars for every day of such neglect or refusal. (2991) [6356]

7676. Shall not lend on or purchase its own stock—It shall make no loan or discount on the security of its own capital stock, nor be the purchaser or holder thereof, unless necessary to prevent loss upon a debt previously contracted in good faith, and all stock so acquired shall be disposed of at public or private sale within six months after it is so acquired. (2992) [6357]

38-85, 35+577; 57-248, 59+299.

Time within which sale is required is from acquisition, not from due date. (134-272, 159+568; 154-232, 191+418).

7677. Restriction upon total liability of individuals to bank—Loans on first mortgage security on improved real estate—Liability of officers or directors to bank—Discounts authorized—Permitting creation of excess liability—Penalty and civil liability—The total liabilities to it, as principal, surety, or endorser of any person, corporation, or co-partnership, including the liabilities of the several members thereof, shall never exceed fifteen (15) per cent of its capital actually paid in cash and of its actual surplus fund. Provided that for the purposes of this section the members of a family living together in one household shall be regarded as one person and the total liabilities of the members of such family shall be limited as herein provided. Provided, however, that loans not exceeding 25 per cent of such capital and surplus made upon first mortgage security on improved real estate in the State of Minnesota or in an adjoining State with in 20 miles of the place where the bank is located, shall not constitute a liability of the maker of the notes secured by such mortgages within the meaning of the foregoing provision limiting liability, but shall be an actual liability of such maker; provided, that such mortgage loans be limited to, and in no case to exceed forty (40) per cent of the cash value of the security covered by such mortgage; provided further, that commercial paper actually owned by the person negotiating the same not exceeding 15 per cent of the capital stock and surplus taken from any one person, shall not constitute a liability within the meaning of this Act, but shall be an actual liability of the maker. The total liability of any officer or director shall never exceed ten per cent of the same aggregate amount. But the discount of the following classes of paper shall not be regarded as creating liability within the meaning of the section, viz:

1. Bonds, orders, warrants or other evidences of indebtedness of the United States, of Federal land banks, of this state or of any county, town, village, or school district in this state, or of the bonds of any other state in the United States.

2. Bills of exchange drawn in good faith against actually existing values.

3. Paper based upon the collateral security of warehouse receipts covering agricultural or manufactured products stored in elevators or warehouses under either of the following conditions:

First—When the actual market value of the property covered by such receipts at all times exceeds by at least ten per cent the amount loaned thereon.

Second—When the full amount of every such loan is at all times covered by fire insurance in duly au-

thorized companies, within the limit of their ability to cover such amounts, and the excess, if any, in companies having sufficient paid-up capital to authorize their admission, and payable in case of loss, to the bank or holder of the warehouse receipt, unless accompanied by a certificate of the railroad and warehouse commission declaring the warehouse issuing the same to be fireproof.

Whenever a bank shall allow any person, co-partnership or corporation to become indebted to it, directly or indirectly, in excess of the amount, exclusive of interest, permitted by the laws of this state, the officer or employe of such bank willfully permitting or approving such loan shall be guilty of a gross misdemeanor and in addition thereto shall be personally liable to the bank for the amount of such loan in excess of the statutory limit. (R. L. '05, § 2993; amended '07, c. 156; '11, c. 160, § 1; '19, c. 103, § 1; '27, c. 258, § 1) [6358]

Cited (119-459, 133+682).

Intent is not limited to state bank allotment of purchasable U. S. bonds (139-222, 166+127). 213+36.

Section has no application to a bond taken to secure payment of the bank's notes. 164-265, 204+938.

Taking such a bond is in the nature of routine business. A resolution of the board of directors, pursuant to section 7678, authorizing its acceptance, is unnecessary. 164-265, 204+938.

The statute (R. L. 1905, § 2981; G. S. 1923, § 7654), is so definite and uncertain that it cannot be held to apply to R. L. 1905, § 2993 (G. S. 1923, § 7677). 212+528.

7678. Contracts, how made—Every contract made by it, except routine business, shall be first duly authorized by resolution of its board of directors, and shall be signed by the president or vice-president and by the cashier or some other officer specially designated by such board, and have its corporate seal impressed thereon. (2994) [6359]

69-421, 72+701.

164-265, 204+938, note under § 7677.

The cashier of a bank, although its chief executive officer, is without power to release a guarantor of paper held by the bank where the bank receives no consideration therefor. 158-269, 197+283.

An officer of a trust company, having express authority to buy and sell securities, has no implied power, in selling securities, to bind the corporation by a contract to repurchase them, on demand at "face value and accrued interest." 164-323, 204+961.

Guaranty of note by bank was valid. 165-278, 206+453.

Where notes given to a bank are negotiated by the cashier, under an agreement to repurchase the same upon 10 days' notice, and the bank received the full face value of such notes, and silently acquiesced in such transaction until suit was brought thereon, it will be estopped from invoking the defense of ultra vires. 165-285, 206+459.

7679. Banks may own real estate when—Such bank may purchase, hold and convey real estate for the following purposes:

1. Such as shall be necessary for the convenient transaction of its business, including with its banking office other apartments to rent as a source of income, which investment shall not exceed forty per centum of its paid-in capital stock and permanent surplus.

2. Such as is acquired through foreclosure of any mortgage given to it in good faith by way of security for loans made or money due to such bank.

3. Such as is conveyed to it in satisfaction of debts previously contracted in good faith in the course of its dealings.

4. Such as it acquires by sale on execution or judgment of any court in its favor.

It shall not purchase, hold or convey real estate in any other case or for any other purpose whatever. No

real estate acquired in the cases contemplated in the second, third and fourth subsections above shall be held for a longer period than five years, unless such time has been extended by certificate of the superintendent of banks duly filed for record with the register of deeds of each proper county. (R. L. '05 § 2995; G. S. '13 § 6360, amended '19 c. 85 § 1; '21 c. 258 § 1) 165-121, 205+951.

7680. Reserve requirement—It shall always keep a reserve equal to fifteen per centum (15%) of its demandable liabilities and five per centum (5%) of its time deposits if located in a reserve city, if not located in a reserve city it shall always keep a reserve equal to twelve per centum (12%) of its demandable liabilities and five per centum (5%) of its time deposits; one-quarter of which shall be cash, including specie, legal tender, national bank notes and federal reserve bank notes. The remainder may be in balance due from solvent banks. No bank shall act as reserve agent for another without the approval of superintendent of banks if its capital and surplus is less than twenty-five thousand dollars. Whenever its reserve shall become impaired, it shall make no new loans or discounts except upon sight bills of exchange, nor declare any dividend until the same has been fully restored. The term "Reserve City" as used herein shall be taken to mean such cities as are designated as reserve cities by act of congress or other federal authority.

Approved April 24, 1915. (R. L. '05 § 2996; G. S. '13 § 6361, amended '15 c. 362 § 1) 66-463, 465; 69+334.

7681. Capital not to be withdrawn—Dividends—No portion of its capital shall ever be withdrawn by any person or in any way, either in dividends or otherwise, except upon reduction as provided by law. No dividend shall ever be made except out of net profits after deducting all indebtedness, losses, and amounts receivable more than one year overdue and not well secured. (2997) [6362]

7682. Insolvent banks—Examiner to take charge, when—No banking corporation shall make an assignment by reason of existing or probable insolvency. Its governing board or managing officers, if satisfied that it is or is about to become insolvent, shall immediately report such fact to the public examiner, who, if satisfied from such report or any other source that such bank has refused to pay its deposits as required by law, has become insolvent, that its books of account are falsely or fraudulently kept, or that it has violated any provision of law, may forthwith take possession of its books, records, and property. Its property shall not be subject to attachment or levy, nor shall a receiver be appointed during such reasonable time as he may require for examination and to apply for a receiver. When appointed, the receiver shall take possession, under the direction of the court, of such books, records, and other property, collect the debts, sell or compound bad or doubtful ones, and sell all corporate property on such terms as the court shall direct, and when necessary pay corporate debts and enforce the individual liability of stockholders. He shall pay over all moneys received by him and make report of his doings to the examiner at such times and in such manner as he may prescribe. Whenever, after report by such officers and before the appointment of a receiver, said examiner shall find the bank in such condition that all creditors aside from stockholders can be paid in full from its assets, he may relinquish possession of its property to its proper officers; and

whenever at any stage of the proceedings the stockholders show the court that it is able to pay all other creditors, and such showing is approved by said examiner, the court may order the property turned over to the stockholders for liquidation or other arrangement, and discharge the receiver. (2998) [6363]

Receiver may enforce individual liability of stockholders and his right is ordinarily exclusive of the right of creditors to do so (66-441, 446, 69+331; 70-358, 73+171). Actions by receiver governed by same rules as sequestration proceedings (70-349, 73+169; 71-497, 500, 74+287. See 67-506, 70+803). Proof of claims. Deductions (71-497, 74+287). Receiver need not apply to court for leave to enforce stockholder's liability. Order granting leave not appealable (70-414, 421, 73+175. See §§ 8020, 8021). Surcharging receiver's accounts for losses from negligent management (103-129, 114+651). Liability of receiver acting under advice of counsel (106-164, 118+683). Compensation of attorneys (103-129, 114+651).

1895 c. 145, amended 1897 c. 228, cited (100-436, 111+387).

Where a state bank has become insolvent and is taken charge of by the Superintendent of Banks, the assets are in custodia legis, and the superintendent or receiver may, under direction of the court, bring suit to collect, compound, or sell all claims belonging to the bank, which furnishes to the depositors a speedy and adequate remedy at law, so that a suit in equity by 193 depositors for the benefit of themselves and all others, to recover against the directors for malfeasance, will not be entertained. 157-366, 196+270.

Debtors to an insolvent bank cannot, when sued by the receiver, offset moneys paid by them after the insolvency as sureties on a bond of the bank given to secure the repayment of deposits. 210+162

A deposit in a bank is general, unless there is an agreement that it shall be special, or be applied to a special purpose, or it is impressed with a trust. 210+891.

7683. Creditors' petition for receiver—Notice—Whenever, at any time after such receiver has been appointed, a majority in number and amount of the creditors shall petition the court for the appointment as receiver of a competent person, resident of the county, named by them, the court shall make such appointment, and all rights and duties of the first receiver shall devolve upon him. The receiver shall cause three weeks' published notice to be given in a newspaper designated by the court, calling upon persons having claims against such bank to present and prove the same. (2999) [6364]

7684. Stock unpaid or impaired—Every bank which shall have failed to pay up its capital stock as required by law, or whose capital shall have become impaired, within ninety days after receiving notice thereof from the public examiner, shall make up the deficiency by a pro rata assessment on the capital stock or go into liquidation, and, in case of refusal to do so, a receiver may be appointed to close up its business as provided in the case of insolvent banks; but, with the consent and approval of the examiner, such bank may reduce its paid-up capital stock as hereinafter provided, pay in any remaining deficiency, and thereupon continue business upon such reduced capital (3000) [6365]

Constitutional liability of stockholders is not discharged by payment of assessment. Nor does voluntary payment to particular creditor relieve from assessment (117-83, 134+513).

125-265, 146+1093.

166-323, 207+632.

7685. Reorganization—Whenever it appears to the examiner by the petition of the owners of a majority of the stock of any bank which is insolvent and under the control of the court that bona fide efforts are being made to reorganize such bank, the examiner may levy an assessment upon the stockholders pro rata, according to the capital stock held by each, in such amount as he deems necessary, not exceeding their liability under the constitution, and order the board of directors to

collect such assessment within sixty days thereafter. (3001) [6366]

7686. Assessment, how enforced—On failure of any stockholder to pay such assessment, the directors may sell his stock at public auction, after three weeks' published notice in a newspaper of the county. Such stock shall not be sold for less than the amount due thereon and the expense of sale, and any excess shall be paid to the delinquent stockholder. If no bidder offers the amount due and expenses of sale, the amount previously paid on such stock shall be forfeited, and the stock sold by order of the directors within six months thereafter, or cancelled and deducted from the capital of the corporation; and whenever, by reason of such cancellation and reduction, the capital is reduced below the minimum required by law, the deficiency shall be paid in within thirty days, or a receiver shall be appointed to close up its business. (3002) [6367]

156-438, 208+129, note under § 7669.

7687. Delinquent financial institutions—Bank defined—The term "bank" whenever used in this act shall mean and include any and all financial corporations as defined in section 2967, Revised Laws 1905 [7635], and all persons and partnerships engaged in any business conducted by any of the corporations mentioned in said section. ('09 c. 179 § 1) [6368]

7688. Violation of charter, etc.—Examiner to take charge—Whenever it shall appear to the public examiner that any bank has violated its charter, or any law of the state, or is conducting its business in an unsafe or unauthorized manner, or that the capital of any such bank is impaired, or if any such bank or controlling officer thereof shall refuse to submit its books, papers and concerns to the inspection of the public examiner, or any assistant by him thereunto duly authorized, or if any officer of such bank shall refuse to be examined upon oath touching the concerns of such corporation, or if any such bank shall suspend payment of its obligations, or furnish reason for the public examiner concluding that such bank is in an unsound or unsafe condition to transact the business for which it was organized, or that it is unsafe and inexpedient for it to continue business, or if any such bank shall neglect or refuse to observe a proper order of the public examiner, the public examiner may forthwith take possession of the property and business of such bank and retain such possession until such bank shall resume business or its affairs be finally liquidated as herein provided. On taking possession of the property and business of any such bank, the public examiner shall forthwith give notice of such fact to any and all banks, associations and individuals holding or in possession of any assets of such bank. No bank, association or person knowing of such taking possession by the public examiner, or notified as aforesaid, shall have a lien or charge for any payment, advance or clearance thereafter made, or liability thereafter incurred against any of the assets of the bank of whose property and business the public examiner shall have taken possession as aforesaid. Such bank may, with the consent of the public examiner, resume business upon such conditions as may be approved by him. Upon taking possession of the property and business of such bank the public examiner is authorized to collect moneys due to such bank and to do such other acts as are necessary to conserve its assets and business, and shall proceed to liquidate the affairs thereof, if in his opinion such bank cannot safely resume business as hereinafter provided. ('09 c. 179 § 2) [6369]

164-265, 204+938.

Right of set-off under § 9166. 212+895.

7689. *Liquidation and distribution of assets*—The public examiner shall collect all debts due and all claims belonging to such bank, and upon the order of the district court may sell or compound all bad or doubtful debts, and on like order may sell all the real and personal property of such bank on such terms as the court shall direct, and may, if necessary to pay the debts of such bank, enforce the individual liability of the stockholders. The public examiner may under his hand appoint one or more special deputy examiners as agents to assist him in the duty of liquidation and distribution, the certificate of appointment to be filed in the office of the public examiner and a certified copy in the office of the secretary of state and also of the clerk of the district court of the county in which the principal office of such bank was located. The public examiner may from time to time authorize any such special deputy examiner to perform such duties connected with such liquidation and distribution as the public examiner may deem proper. The public examiner may procure such expert assistants as may be necessary in the liquidation and distribution of the assets of such bank and may retain such of its officers or employes as he may deem necessary, and upon his request in writing the attorney general shall employ a special attorney to act as counsel in all matters relating to the liquidation of each such bank, which appointment shall be made according to the provisions of the statutes regulating the employment by the attorney general of special attorneys for state boards and officers, and the payment of such attorney shall be from the proceeds of the assets of the bank with whose liquidation he becomes thereby connected. The public examiner shall require from each special deputy examiner such security for the faithful discharge of his duties as he may deem proper. The public examiner shall cause notice to be given by advertisement in such newspapers as he may direct, weekly for three consecutive months, calling on all persons who may have claims against such bank to present the same to the public examiner, and make legal proof thereof at a place and within a time not earlier than one week after the last day of publication, which time and place shall be specified in said notice. The public examiner shall mail a similar notice to all persons whose names appear as creditors upon the books of the bank. If the public examiner doubts the justice and validity of any claim he may reject the same and serve notice of such rejection upon the claimant, either by mail or personally. An affidavit of the service of such notice made according to law shall be filed with the public examiner. An action upon a claim so rejected must be brought within six months after such service and the filing of proof thereof. Claims presented after the expiration of the time fixed in the notice to creditors shall be entitled to share in the distribution only to the extent of the assets in the hands of the public examiner equitably applicable thereto. Upon taking possession of the property and assets of such bank the public examiner shall make an inventory of the assets of such bank in duplicate, one to be filed in the office of the public examiner and one in the office of the clerk of the district court of the county in which the principal office of such bank was located. Upon the expiration of the time fixed for the presentation of claims, the public examiner shall make in duplicate a complete list of the claims presented, including and specifying such claims as have been rejected by him, one such list to be filed in his office and one in the office of said clerk of the district court. Such inventory and list of claims shall be open at all reasonable times to

inspection. The compensation of the special deputy examiners and the other employes and assistants of the public examiner, except legal counsel, and all expenses of supervision and liquidation shall be fixed by the public examiner, subject to the approval of the district court of the county in which each such bank is located, after notice fixing the time and place when the public examiner will hear and fix the amount of all such expenses, and the amount so fixed and the compensation of legal counsel as fixed by the attorney general, shall be paid upon the certificates of the public examiner and the attorney general respectively, out of the funds of such bank in the hands of the public examiner. The moneys collected by the public examiner shall be from time to time deposited in one or more state banks or trust companies, and, in case of the suspension or insolvency of the depository, such deposits shall be preferred before all of the deposits. At any time after the expiration of a date fixed for the presentation of claims the public examiner may, out of the funds remaining in his hands after the payment of expenses, declare one or more dividends, and after the expiration of one year from the first publication of notice to creditors he may declare a final dividend, such dividends to be paid to such persons and in such amounts and upon such notice as may be directed by the said district court. Objections to any claim not rejected by the public examiner may be made by any party interested by filing a copy of such objections with the public examiner, who shall present the same to the district court at the time of the next application to declare a dividend. The court may make proper provision for unapproved or unclaimed deposits. Whenever any such bank of whose property and business the public examiner has taken possession as aforesaid, deems itself aggrieved thereby it may at any time within ten days after such taking possession apply to the district court of the county in which such bank is located to enjoin further proceedings, and said court, after citing the public examiner to show cause why further proceedings should not be enjoined, and hearing the allegations and proofs of the parties and determining the facts, may, upon the merits, dismiss such application or enjoin the public examiner from further proceedings and direct him to surrender such business and property to such bank. Whenever the public examiner shall have paid each and every depositor and creditor of such bank (not including stockholders) whose claim or claims as such creditor or depositor shall have been duly approved and allowed, the full amount of such claims, and shall have made proper provision for unclaimed and unpaid deposits or dividends and shall have paid all the expenses of the liquidation, the public examiner shall call a meeting of the stockholders of such corporation by giving notice thereof for ten days by publishing such notice in one or more newspapers of the county where the bank is located. At such meeting the stockholders shall determine whether the public examiner shall be continued as liquidator and shall wind up the affairs of such bank, or whether an agent or agents shall be elected for that purpose, and in so determining the said stockholders shall vote by ballot, in person or by proxy, each share of stock entitling the holder to one vote, and the majority of the stock shall be necessary to a determination. In case it is determined to continue the liquidation under the public examiner he shall complete the liquidation of the affairs of such corporation, and after paying the expenses thereof shall distribute the proceeds among the stockholders in proportion to their several holdings of stock in such manner and upon such

notice as may be directed by the district court. In case it is determined to appoint an agent or agents to liquidate, the stockholders shall thereupon select such agent or agents by ballot, a majority of the stock present and voting, in person or by proxy, being necessary to a choice. Such agent or agents shall execute and file with the public examiner a bond to the state of Minnesota in such amount with such sureties and in such form as shall be approved by the public examiner, conditioned for the faithful performance of all the duties of his or their trust, and thereupon the public examiner shall transfer and deliver to such agent or agents all the undivided or uncollected or other assets of such corporation then remaining in his hands, and upon such transfer and delivery the said public examiner shall be discharged from any and all further liability to such bank and its creditors. Such agent or agents shall convert the assets coming into his or their possession into cash and shall account for and make distribution of the property of such bank as is herein provided in the case of distribution by the public examiner, except that the expenses thereof shall be subject to the direction and control of the said district court. In case of the death, removal or refusal to act of any such agent or agents, the stockholders, on the same notice as that after which they were elected and in the same way, may elect a successor who shall have the same powers and be subject to the same liabilities and duties as the agent originally elected. Dividends on unclaimed deposits remaining unpaid in the hands of the public examiner for six months after the order for final distribution shall be by him deposited in one or more state banks or trust companies to the credit of the public examiner as such, in trust for the several depositors with and creditors of the liquidated bank from which they were received and to whom they belonged. The public examiner shall report semi-annually in his public report the names of banks so taken possession of and liquidated and the sums of unclaimed and unpaid deposits or dividends with respect to each of them respectively, and also a brief statement of the principal facts as to each such liquidation. The public examiner may pay over the moneys so held by him to the persons respectively entitled thereto upon being furnished satisfactory evidence of their right to the same. In cases of doubt or conflicting claims he may require an order of the district court authorizing and directing the payment of such claims. He may apply the interest earned by the moneys so held by him towards defraying the expenses incident to the payment and distribution of such unclaimed deposits or dividends to the depositors and creditors entitled to receive the same, and he shall include in his said public report a statement of the amount of interest earned by such unclaimed deposits and dividends. ('09 c. 179 § 3) [6370]

State is preferred creditor as to state funds (146-343, 178-818).

Where a state bank has become insolvent and is taken charge of by the Superintendent of Banks, the assets are in custodia legis, and the superintendent or receiver may, under direction of the court, bring suit to collect, compound, or sell all claims belonging to the bank, which furnishes to the depositors a speedy and adequate remedy at law, so that a suit in equity by 193 depositors for the benefit of themselves and all others, to recover against the directors for malfeasance, will not be entertained. 157-366, 196-270.

A transaction between a bank and one leaving money with it construed as a special and not a general deposit. 210-865.

While money paid into a bank for the express purpose of discharging a mortgage debt may be, nothing else appearing, a special deposit, it ceases to be such where

the mortgagee accepts and retains for over 20 days a cashier's check for the amount payable to his own order. 211-954.

Right of set-off under § 9166. 212-895.

7690. Banks in possession of examiner or in liquidation — Powers of examiner — Certificates — Certain proceedings validated—That in all cases where the superintendent of banks of this state has taken possession of the property and business of any bank, or any such bank is in the process of liquidation by him, pursuant to the laws of this state, such superintendent may in the name of any such bank or in his own name as superintendent of banks of the state of Minnesota, for the use of any such bank, bring and carry to an end all necessary actions in the proper courts to reduce the assets of any such bank to money and to protect the property and rights of any such bank, and to that end may in the name of any such bank or in his own name as superintendent of banks, execute all bonds and other papers necessary to carry on any such actions, and may in the name of any such bank, satisfy and discharge by written instrument, any and all real estate and chattel mortgages and all other liens held by any such bank and may in the name of any such bank foreclose by advertisement in the manner provided by the laws of this state, any real estate mortgage held by any such bank and to execute in the name of any such bank to the attorney employed to foreclose any such mortgage by advertisement the power of attorney required by the laws of this state in case of foreclosure of mortgages by advertisement. Such superintendent of banks prior to any sale under such foreclosure proceedings shall file for record in the office of the register of deeds of the county where any land affected by any such foreclosure sale is situated, a certificate under his hand as such superintendent of banks, stating therein the corporate name of the bank affected; its principal place of business; that as such superintendent he has taken possession of the property and business of such bank under the laws of the state and the date of such taking possession thereof; that such bank is in process of liquidation by him, pursuant to the laws of this state if such be the fact. A like certificate shall be filed for record by such superintendent of banks in the office where any such mortgage or lien is recorded. Such certificate, or a duly certified copy thereof, shall be prima facie evidence of the facts therein set forth.

A like certificate shall be filed by such superintendent of banks in the office of the clerk of the district court in any county where any action or proceeding affecting any such bank or its property shall be brought in any court, in the name of any such bank or in the name of such superintendent of banks, for its use prior to the entry of judgment therein or the entry of any final order in any such proceeding, and such certificate, or a duly certified copy thereof, shall be prima facie evidence of the facts therein set forth.

That where such superintendent of banks has heretofore taken possession of the property and business of any such bank or the same is in process of liquidation by the superintendent of banks, pursuant to the laws of this state, and actions have been heretofore brought in the name of any such bank or in the name of such superintendent of banks for the use of any such bank in any court of the state, all such actions and all orders and judgments that have heretofore been entered therein or may hereafter be entered therein be and the same are hereby in all things validated on the filing of the certificate hereinbefore provided

for in the court wherein any such action or proceeding is or has been pending.

This act shall not affect any action now pending in any court in this state, affecting any such action or judgment. ('13 c. 447 § 1) [6371]

Chapter 38, Laws 1925, has no application to a non-consenting depositor whose deposit was made prior to the enactment of this chapter. 166-433, 208+185.

7690-1. Reorganization plans of insolvent banks—Approval and effect—Whenever the Superintendent of Banks, with a view of restoring the solvency of any bank of which he has taken charge pursuant to law, shall approve a reorganization plan entered into between the depositors and unsecured creditors of such bank and the bank or reorganizers thereof which represent ninety per cent of the amount of deposits and unsecured claims of such banks, then and in such case all other depositors and unsecured creditors shall be held to be subject to such agreement to the same extent and with the same effect as if they had joined in the execution thereof, and their claims shall be treated in all respects as if they had joined in the execution of such articles or reorganization plan in the event of restoration of such bank to solvency, and the reopening of the same for business. ('25, c. 38, § 1)

7690-2. Same—Deposits subject to law—All deposits made in any State bank subsequent to the passage of this act shall be subject to the conditions thereof. ('25, c. 38, § 2)

7690-3. Same—Deposits not subject to law—Deposits of the State of Minnesota, Counties, Cities, Villages, Townships and School Districts are exempt from the operation of this Act. ('25, c. 38, § 3)

7690-4. Sale, compromise, etc., of debts due bank in possession of Commissioner—Whenever in the liquidation of any bank or other financial corporation by the Commissioner of Banks, said commissioner is of the opinion that a debt due said corporation is bad or doubtful, he may present a verified petition to a judge of the district court having jurisdiction setting forth the facts, and the judge, if satisfied that it is for the best interests of the creditors, may hear such petition without notice and make an order granting such petition and authorizing the commissioner to sell, compound or compromise such debt. Personal property or real estate may be sold on like petition, approval and order, provided, that if a petition for the sale of real estate is presented, the judge may provide that notice of a hearing thereon to the creditors be given by publication in such manner as the judge may deem best.

This act is supplementary and in addition to the provisions of General Statutes 1923, Sections 7689 and 7690, and is for the purpose of making the liquidation of banks and other financial institutions more speedy and economical. ('27, c. 127)

7691. Increase and reduction of capital—No increase or reduction of its capital shall be valid until the entire new capital has been paid in cash, and certified to the examiner under oath of the president, or vice-president, or cashier. The examiner shall thereupon issue his certificate of that fact, and of his approval thereof. No reduction shall affect the liability of any stockholder for any indebtedness incurred prior thereto. (3003) [6372]

59-221, 227, 61+27; 66-1, 4, 68+104; 67-267, 275. 69+904.

7692. Consolidation, when authorized—With the written consent of the examiner, it may effect a transfer of its assets and liabilities to another bank for the purpose of consolidating therewith, but the same shall

be without prejudice to the creditors of either. (3004) [6373]

Chapter 38, Laws 1925, has no application to a non-consenting depositor whose deposit was made prior to the enactment of this chapter. 166-433, 208+185.

7693. Branch banks prohibited—No bank or trust company organized under the laws of this state shall maintain a branch bank or receive deposits or pay checks within this state except at its own banking house, and the superintendent of banks shall take possession of and liquidate the business and affairs of any state bank or trust company violating the provisions of this act in the manner prescribed by law for the liquidation of insolvent state banks and trust companies. ('23 c. 170 § 1)

7694. Liquidation—By a resolution duly adopted by the holders of a majority of its stock it may go into liquidation and close its affairs, after filing with the examiner a duly certified copy thereof, and giving eight weeks' published notice to creditors to present their claims, and filing proof thereof with him. (3005) [6374]

Inconsistency of 7641 and 7694, if applying to same subject matter (145-341, 177+460).

7695. State banks organized from national—Whenever any national bank authorized to dissolve has taken the necessary steps for that purpose, a majority of its directors, upon authority in writing of the owners of two-thirds of the capital stock and the approval of the public examiner, may execute a certificate of incorporation under the provisions of this chapter, which, in addition to the other requirements of law, shall state the authority derived from the stockholders of such national bank; and upon recording and publishing such certificate as provided by law, it shall become a legal state bank. Thereupon the assets, real and personal, of said dissolved bank, subject to its liabilities not liquidated under the federal law before such incorporation, shall vest in and become the property of such state bank. (3006) [6375]

7696. Execution of trust—Whenever any state bank shall reorganize as a national bank, such national bank shall be regarded as continuing the existence of the state bank, and any officer of such bank elected to a corresponding office in said national bank shall be regarded as holding over as such state bank officer, for the purpose of carrying out any duty or trust reposed in the person holding such office or his successor in the state bank as executor of a will or trustee of any trust; and his successors in office in such national bank shall be regarded as his successors in office in such state bank for the purpose of executing such will or performing such trust; and the executor of any will, or any trustee thereunder, who by such will has been directed or recommended to deposit the money of such estate or trust in such state bank, may deposit the same in said national bank under the same conditions as he might have deposited them in the state bank, and with the same immunity from responsibility for its safety. (3007) [6376]

7697. Clearing houses—Clearing houses may make and enforce suitable provisions for effecting, at one place, daily exchanges and the settlement and adjustment of accounts between banks in the same locality, and under appropriate regulations may issue clearing house certificates for those purposes only, and may otherwise act in maintaining and enforcing uniformity of methods and harmonious action in banking business. (3008) [6377]

7698. Payment of forged or raised check—Liability to depositor—No bank which has paid and charged to

the account of a depositor any money on a forged or raised check issued in the name of said depositor shall be liable to said depositor for the amount paid thereon unless either (1) within six months after notice to said depositor that the vouchers representing payments charged to the account of said depositor for the period during which such payment was made are ready for delivery, or (2) in case no such notice has been given, within six months after the return of said depositor of the voucher representing such payment, said depositor shall notify the bank that the check so paid is forged or raised. ('11 c. 305 § 1) [6378]

Not applicable where bank cashes state voucher, payee's endorsement being forged (145-322, 177+135).

7699. Same—Notice to depositor—The notice referred to in the preceding section may be given by mail to said depositor at his last known address with postage prepaid. ('11 c. 305 § 2) [6379]

7699-1. Bonds or contracts of indemnity of officers and employees of bank—Every state bank shall be protected against loss by reason of the unlawful act of any of its officers or employees by a bond with good and sufficient sureties or by a contract of insurance written by a solvent insurance corporation in good standing authorized to do business in this state. This shall not require the bonding or insuring of officers or directors of a bank not having active management or control thereof or employees of a bank not holding positions of trust. ('25, c. 351, § 1)

7699-2. Same—Requisites and conditions of—If a bond is given, it shall be in favor of the bank and shall have one corporate surety which shall be a solvent insurance corporation in good standing authorized to do business in Minnesota, or at least five individual sureties, not one of whom shall be an officer, director or stockholder of such bank and each of whom shall justify in a sum equal to the penalty of the bond, and in addition thereto each such individual surety shall furnish to the bank in connection with such bond a verified financial statement showing his solvency and responsibility, which statement shall be renewed and revised annually by each such surety. If a contract of insurance is secured, it shall be in favor of the bank and shall be executed by some insurance company possessing the qualifications heretofore specified. ('25, c. 351, § 2)

7699-3. Same—Bank examiners to report as to—Whenever an examination is made of a bank by the superintendent of banks, or his examiner, the report of such examination made to the superintendent of banks shall state the names of all the officers and employees of such bank so bonded or insured and the penalty of the bonds or the amount of the insurance covering them, and whenever the superintendent, after an investigation, finds as a fact that any bank is not adequately protected against loss by reason of the unlawful act of any officer or employee thereof, whether through the omission to secure any bond or contract of insurance or through the insufficiency of the sureties or the insurer on the bond or policy given, or otherwise, he may require by written order that such bonds or contracts of insurance in favor of such bank be obtained as in his opinion would adequately protect such bank against loss by reason of the unlawful act of any of its officers or employees, and shall thereupon notify such bank by registered mail of his order, and if the same is not complied with thirty days after the date of the mailing of such order, such bank may be closed by him and if closed shall not be permitted to resume business until said order has been

fully complied with. All such bonds or contracts of insurance shall remain in custody of the bank protected thereby and shall be available for examination and inspection by the superintendent of banks. ('25, c. 351, § 3)

BANKS AND TRUST COMPANIES.

7699-4. Officers—Appointment and removal by directors—The board of directors of a bank or trust company organized under the laws of this state shall have full power and authority at any time to appoint and remove any officer or employe. ('27, c. 259, § 1)

7699-5. Consolidation of state banks or trust companies—When authorized—Procedure—Any two or more State Banks, operating in the same city or village, may be consolidated into a consolidated state bank, and any two or more Trust Companies, operating in the same city or village, may be consolidated into a consolidated Trust Company, and any one or more State Banks and any one or more Trust Company, operating in the same city or village, may be consolidated into a consolidated State Bank or consolidated Trust Company, as the respective Boards of Directors thereof may determine. All such consolidations shall be affected in the manner herein provided and when so organized, such consolidated corporation shall be governed and conducted in all other respects as provided by the statutes relating to such respective classes of financial corporations. ('25, c. 156, § 1)

7699-6. Same—Consolidation agreement—Contents—The respective Boards of Directors of such consolidating corporations may by the majority vote of all of the members of each board make or authorize to be made between such corporations a written consolidation agreement, in duplicate, for the consolidation of such corporations. Such agreement shall specify each corporation to be a party to such consolidation and shall prescribe the terms and conditions thereof; the mode of carrying it into effect; the authorized capital stock of the consolidated corporation, which shall not exceed the aggregate authorized capital stock of all of the corporations that are a party thereto; the name of the consolidated corporation, which may be the name, in whole or in part, of any corporation which is a party to such agreement, and shall specify the city or village in which it shall have its principal place of business. It shall name the persons who shall constitute the Board of Directors of the consolidated corporation, but the number and qualifications of such persons shall be in accordance with the statutes relating to the number and qualifications of directors of such class of corporation. ('25, c. 156, § 2)

7699-7. Same—Agreement and proceedings submitted to superintendent of banks for approval—Such consolidation agreement and certified copy of the proceedings of the meetings of the respective boards of directors, at which the making of such agreement was authorized, shall be submitted, to the Superintendent of Banks, for his approval and it shall not be effective until so approved by him. He shall take action thereon with twenty days after such documents are submitted to him, and he shall be entitled to such further information from the consolidated corporation as he may request, or as he may obtain upon a hearing directed by him. ('25, c. 156, § 3)

7699-8. Same—Agreement submitted to stockholders for approval—Certificate of consolidation—Filing for record—Consolidation deemed complete—Either before or after such consolidation agreement has been

approved by the Superintendent of Banks, it shall be submitted to the stockholders of each such corporation at a meeting thereof called for such purpose, and it shall not become binding upon such corporation until it shall have been approved at each of such meetings by the vote or ballot of the stockholders, holding at least a majority of the amount of stock of the respective corporations. Proof of the holding of such meetings and the results thereof shall be submitted to the Superintendent of Banks. After such consolidation agreement shall have been so approved by the stockholders of the respective corporations and by the Superintendent of Banks, the latter shall issue a certificate reciting that such corporations have complied with the provisions of this act and declaring the consolidation of such corporations; the name of the consolidated corporation, the amount of capital stock thereof and the names of the first Board of Directors, and the place of business of such consolidated corporation, which shall be within the city or village where any one of said constituent corporations shall have been previously authorized to have its place of business. Upon the issuing of such certificate and the filing thereof for record in the office of the Secretary of State, and also in the office of the Register of Deeds within and for the county in which said consolidated corporation is authorized to have its principal place of business, such incorporation shall be deemed to be complete, and such consolidated corporation shall from the date of such certificate have such term of corporate existence as may be therein specified not exceeding the longest unexpired term of any constituent corporation. The certificate of the Superintendent of Banks shall be prima facie evidence that all of the provisions of this Act have been complied with and shall be conclusive evidence of the existence of such consolidated corporation. ('25, c. 156, § 4)

7699-9. Same—Corporate existence merged—Rights, powers, obligations, etc.—Upon the consolidation of any such corporation, with any one or more corporations, into a consolidated corporation, as herein provided, the corporate existence of each former corporation shall be merged into that of the consolidated corporation, and all and singular its rights, privileges, and franchises, and its right, title and interest in and to all property of whatsoever kind, whether real, personal, or mixed, and all things in action, and every right, privilege interest or asset of conceivable value or benefit then existing which would inure to it under an unmerged or unconsolidated existence shall be deemed fully and finally transferred to and vested in the consolidated corporation without further act or deed and such last mentioned corporation shall have and hold the same in its own right as fully as the same was possessed and held by the former corporation from which it was, by operations of this act, transferred. Its rights, obligations, and relations to any person, creditor, depositor, trustee, or beneficiary of any Trust, shall remain unimpaired and the corporation into which it shall have been consolidated shall succeed to such relations, obligations, trusts, and liabilities and shall execute and perform all such trusts in the same manner as though it had itself assumed the relation or trust, or incurred the obligation or liability; and its liabilities and obligations to creditors existing for any cause whatsoever shall not be impaired by such consolidation, nor shall any obligation or liability of any stockholder in any corporation, which is party to such consolidation, be affected by any such consolidation, but such obligations and lia-

bilities shall continue as fully and to the same extent as existed before such consolidation. The consolidated corporation shall become, without further act or deed, the successor of the consolidating corporations in any and all fiduciary capacities, in which each such consolidated corporation may be acting at the time of such consolidation, and shall be liable to all beneficiaries as fully as if such consolidating corporations had continued its separate corporate existence. If any consolidating corporation shall be nominated and appointed or shall have been nominated or appointed as executor, guardian, administrator, agent or trustee, or in any other trust relation of fiduciary capacities in any will, trust agreement, trust conveyance or any other conveyance, order or judgment of any Court, or any other instrument whatsoever prior to such consolidation, (even though such will or other instrument shall not become operative or effective until after such consolidation shall have become effective) every such office, trust relationship, fiduciary capacity, and all of the rights, powers, privileges, duties, discretions, and responsibilities so provided to devolve upon, vest in, or inure to the corporation so nominated or appointed, shall fully and in every respect devolve upon, vest in, and inure to, and be exercised by the consolidated corporation, whether there be one or more successive mergers or consolidations. ('25, c. 156, § 5)

7699-10. Same—Pending actions or proceedings not affected—Any pending action or other judicial proceeding in which any consolidating corporation is a party shall not be deemed to have abated, or to have discontinued by reason of the consolidation, but may be prosecuted to final judgment, order, or decree in the same manner as if the consolidation had not been made, or the consolidated corporation may be substituted as a party to such action or proceeding, and any judgment, order or decree may be rendered for or against it that might have been rendered for or against such corporation if the consolidation had not occurred. ('25, c. 156, § 6)

7699-11. Same—Rights of dissenting stockholders—Any stockholders not voting in favor of such agreement of consolidation at the meeting prescribed in Section 4 of this act, may at such meeting or within twenty days thereafter object to the consolidation and demand payment for his stock. If the consolidation takes effect at any time after such demand, such stockholder may, at any time within sixty days thereafter, apply to the district court in the county wherein is situated the principal place of business of the corporation with which the other or others are consolidated, for the appointment of three persons to appraise the value of his stock. The court shall thereupon appoint such appraisers and designate the time and place of their first meeting with such directions in regard to their proceedings as shall be deemed proper, and shall also direct the time and manner in which payment shall be made of the value of such stock to such stockholder. The appraisers shall meet at the time and place designated, and, after being duly sworn to discharge their duties honestly and faithfully, they shall make and certify a written estimate of the value of such stock at the time of the appraisal, and shall deliver one copy to the corporation and another to such stockholder if demanded. The charges and expenses of the appraisers shall be paid one-half by the stockholder and one-half by the corporation. When the corporation shall have paid the appraised value of such stock, such stock shall be cancelled and such stockholder shall cease to be a member of said corporation or to have

any interest in such stock or in the corporation or in the corporate property, and such stock may be held and disposed of by the corporation for its own benefit. ('25, c. 156, § 7)

Explanatory note—For section 4, see § 7699-8, herein.

7699-12. Deposits in excess of 25 times amount of capital and actual surplus not to be accepted—That no bank or trust company organized under the laws of this state shall accept deposits in a sum exceeding 25 times the amount of its capital stock and its actual surplus. ('27, c. 325, § 1, effective Jan. 1, 1928 by § 3)

7699-13. Same—Commissioner to take possession and liquidate unless deposits are reduced—If any such bank or trust company shall violate the provisions of Section 1 hereof the Commissioner of Banks may take possession thereof and liquidate such corporation in accordance with law, unless said bank shall within ninety days after notice from the commissioner of banks reduce its deposits to the amount allowed by law or increase its capital stock accordingly. ('27, c. 325, § 2, effective Jan. 1, 1928 by § 3)

7699-14. Pledges, hypothecations, assignments and transfers of and liens against assets unauthorized—Exception—No bank or trust company shall pledge, hypothecate, assign, transfer or create a lien upon or charge against any of its assets except to secure public deposits or to secure money borrowed in good faith from other banks or trust companies; provided, that this section shall not be construed to permit the use of any assets as security for public deposits other than the securities made eligible by law for that purpose. ('27, c. 257, § 1)

7699-15. Power of officers or employees to borrow money, make guaranties, or endorse, pledge or hypothecate notes, bonds or other obligations—No officer or employe of a bank or trust company shall have power or authority to borrow money, execute guaranties or endorse, otherwise than without recourse, pledge or hypothecate any note, bond or other obligation belonging to such bank or trust company unless such power and authority shall have been given such officer or employe by the board of directors and a written record thereof made in the minute book of the bank and a certified copy of such record delivered to the creditor, guarantee, pledgee, or endorsee of such note, bond, guaranty or other obligation. ('27, c. 257, § 2)

7699-16. Pledges, etc., of assets subject to prior liens, etc.—No bank or trust company shall pledge or hypothecate or create a lien upon or charge against any of its assets subject to a prior lien, hypothecation or charge. ('27, c. 257, § 3)

7699-17. Loans on real estate restricted—No bank or trust company shall make any loan upon the security of real estate unless it is a first lien thereon. Before any such loan is made the value of the real estate shall be determined by an appraisal made by a committee appointed by the board of directors which appraisal shall be made a matter of record; provided, that a bank or trust company may take a junior lien upon real estate to secure a loan previously contracted. ('27, c. 257, § 4)

7699-18. Unauthorized pledges, notes, etc., void—Any note, endorsement, guaranty, pledge, hypothecation, lien or other obligation given contrary to the provisions of sections one, two and three of this act shall be null and void. ('27, c. 257, § 5)

Explanatory note—For sections 1, 2 and 3, see §§ 7699-14 to 7699-16, herein.

7699-19. Violations of law by officers or employes—Penalty—Any officer or employe of a bank or trust

company who violates the provisions of this act or who consents thereto or connives thereat shall be guilty of a gross misdemeanor. ('27, c. 257, § 6)

7699-20. Assessments against stockholders of insolvent banks and trust companies in liquidation by commissioner—Orders for—In all cases where a state bank or trust company has been closed and the commissioner of banks has taken charge of its business, property and assets, and such corporation is in process of liquidation by the commissioner and the commissioner shall find and determine that such corporation is insolvent, and it is necessary in order that the creditors thereof may be paid, to levy an assessment on and against the stockholders of such corporation, in such case the commissioner is hereby authorized and empowered to make and file an order in this office, levying an assessment against and upon the stockholders of such corporation. Such order shall set forth a summary statement of the assets of such corporation and the probable value thereof, and of the deposits and other liabilities of said corporation, and state the reasons for such assessment and the rate thereof against each share of stock and fix the time within which assessment must be paid, which time shall not be less than 40 days from the date of filing such order.

A certified copy of such order shall be filed in the office of the clerk of court in the county where such corporation has its principal place of business.

A copy of such order shall be served by the commissioner by registered mail, on each of the stockholders of such corporation directed to his last known address within ten days after the filing of such order in the office of such commissioner. ('27, c. 254, § 1)

7699-21. Same—Review of orders of commissioner—Such order shall be a conclusive determination that the necessity for the levying of such assessment exists. Provided, that such corporation or any stockholder or creditor thereof may secure a review of the commissioner's order by serving a notice so requesting upon the commissioner within twenty days after the service of such order upon the aggrieved party. Such notice with proof of service thereof, shall be filed within ten days after service with the clerk of the district court in the county where such corporation has its principal place of business. Such district court shall thereupon have jurisdiction to consider the necessity of levying the assessment, and shall hear and determine the matter de novo in or out of term at any place in the district. Such hearing shall take precedence of all other matters and may be held upon ten days written notice by either party. The judge shall make such order in the premises as is proper and may affirm, vacate or modify the commissioner's order, and an appeal may be taken therefrom to the supreme court. During the pendency of such appeal the commissioner of banks shall remain in charge of the business, property and assets of the corporation involved. ('27, c. 254, § 2)

7699-22. Same—Defenses by stockholders—In all other respects the stockholders in such corporation shall have and retain all defenses that they may now have, in case an action is brought to enforce payment of such assessment. ('27, c. 254, § 3)

7699-23. Same—Remedy exclusive—This act shall not be cumulative, but shall be the exclusive procedure for the levying of assessments upon and against stockholders of banks or trust companies in charge of the commissioner and in process of liquidation by him. ('27, c. 254, § 4)

7699-24. **Same—Application of law—**This act shall be effective in all cases where proceedings to levy assessments have not been commenced at the time this act takes effect. ('27, c. 254, § 5)

7699-25. **Insolvent banks or trust companies in possession of commissioner—Pending actions stayed—**That whenever the commissioner of banks shall take possession of the business and property of any insolvent bank or trust company all actions at law pending against such bank or trust company shall be stayed upon motion to the court setting forth said fact so long as such possession continues. ('27, c. 261, § 1)

7699-26. **Same—Garnishments, attachments and levies vacated—**All garnishments, attachments and levies in any action against such bank or trust company shall likewise be set aside and vacated upon motion. ('27, c. 261, § 2)

7699-27. **Same—Judgments vacated—**All judgments for money only entered against such bank or trust company within 30 days preceding the date when the commissioner takes possession shall be vacated and set upon motion and the judgment creditor shall be entitled to file his claim with the commissioner of banks; all other judgments entered within said period of 30 days shall be vacated upon the application of the commissioner of banks to the court wherein such judgment is entered when it appears to the court that the judgment is detrimental to the interest of the creditors of the bank. ('27, c. 261, § 3)

7699-28. **Same—Levies upon or seizures of assets unlawful—**It shall be unlawful for any officer or other person to levy upon, seize or attach any of the assets of such bank or trust company to the possession of which the commissioner is entitled, after the commissioner has taken possession, and so long as such possession continues. ('27, c. 261, § 4)

7699-29. **Same—Actions on claims—Filing of claims with and rejection of by commissioner—Pending actions—**No action shall be commenced against any insolvent bank or trust company on any claim until such claim has been filed with and rejected in whole or in part by the commissioner of banks, as provided in Section 7689, General Statutes 1923, provided, however, that the commissioner of banks may waive such requirement in any pending action and permit the filing of such claim during the pendency thereof, and all proceedings shall thereupon be stayed until such filing has been made, and if the claim be allowed the action shall terminate and be dismissed without costs and disbursements, but if rejected in whole or in part the action may continue. ('27, c. 261, § 5)

SAVINGS BANKS

7700. **Expediency to be ascertained—**To enable the public examiner to determine the expediency of the organization of a savings bank as in this chapter prescribed, he shall investigate and ascertain:

1. Whether greater convenience of access to a savings bank will be afforded to any considerable number of depositors by opening the proposed bank;

2. Whether the population in the vicinity of the location of such bank affords reasonable promise of adequate support therefor; and

3. Whether the responsibility, character, and general fitness of the persons named as trustees in the certificate are such as to command the confidence of the community in the proposed bank. (3009) [6380]

7701. **Refusal to issue certificate—Notice—**Whenever the examiner shall be satisfied that the establishment of such bank will not be expedient, he shall

forthwith transmit to the register of deeds of the county of its proposed location his certificate that he has refused to issue a certificate of authorization for such bank, and such register shall forthwith file and record the same and refer thereto on the margin of the record of the declaration of the proposed trustees theretofore filed and recorded in his office. (3010) [6381]

7702. **Time for commencing business—Extension—**If it shall not commence business within one year after the issue of its certificate of authority, it shall forfeit its corporate franchises, unless allowed further time, not exceeding one year, by an order of the examiner, reciting good cause, and transmitted by him to the register of deeds. (3011) [6382]

7703. **Bonds of trustees—**Every trustee, before entering upon his duties, shall give bond to the state in a penal sum of not less than five thousand dollars, with sureties approved by a judge of the district court, conditioned for the faithful discharge of his duties, and file the same for record with the register of deeds of the county, who, after record, shall transmit it to the examiner. An action may be maintained on such bond by any person aggrieved by breach of any of its conditions, upon leave granted by any such judge, for such damages as the plaintiff may be entitled to, not exceeding its amount; and like successive actions may be maintained until such amount is exhausted. (3012) [6383]

7704. **Bond of treasurer, etc.—**Before entering upon his duties, the treasurer shall also give bond to the bank in such sum, not less than ten thousand dollars, as the board of trustees shall prescribe, for the faithful discharge of his duties, and at any time thereafter he may be required by the board to furnish additional security. The board may also require, at any time, from any other officer, employee, or agent, such security as it deems necessary. (3013) [6384]

7705. **Trustees—First board—Compensation, etc.—**The business of every such bank shall be managed by a board of not less than seven trustees. The persons named in the certificate of authorization shall constitute the first board. Each vacancy shall be filled by the board as soon as practicable, at a regular meeting thereof, except when a resolution reducing the number of trustees named in its charter to a number not less than seven shall have been incorporated into its by-laws, and a copy thereof filed with the examiner, in which case vacancies shall not be filled until the number has been reduced to that specified in such resolution. The number may be increased to any number specified in a like resolution, consented to, in writing, by said examiner. (3014) [6385]

7706. **Meetings—Quorum—**There shall be at least one regular meeting of the board of trustees every month for the transaction of business, and five trustees, shall constitute a quorum at any meeting. (R. L. § 3015, amended '07 c. 468 § 3) [6386]

7707. **Interest in profits—Vacation of office—Compensation—**No trustee shall have any interest whatsoever, direct or indirect, in its profits, or directly or indirectly receive any compensation or reward for his services as such, except as hereinafter provided; and no trustee or officer, directly or indirectly, for himself or as the agent or partner of others or otherwise, or in any representative or fiduciary capacity, shall borrow any of its funds or deposits, or in any manner use the same, except in current and necessary disbursements previously authorized by specific resolution of the board; nor shall he become an endorser or surety or in any manner render himself liable to it

for money loaned or in any other way or respect whatsoever, or without resignation become a trustee, officer, or employe of any other savings bank. Willful violation of any of the foregoing provisions shall vacate his office, and render him thereafter ineligible to election or appointment as trustee or officer of any savings bank. Failure to attend the regular meetings of the board or to perform any other of his duties as trustee for six successive months, without having been previously excused, shall vacate his office as trustee, but such non-attendance merely shall not render him ineligible to election or appointment. Trustees acting as officers whose duties require and receive their regular and faithful attendance at the bank and trustees appointed as a committee whose duties require and receive their actual service, may receive such compensation as a majority of the board of trustees, exclusive of the trustee to whom such compensation shall be voted, may determine. (R. L. § 3016, amended '07 c. 468 § 4) [6387]

Cited (102-199, 113+268).

7708. Deposits—Limitation of amount—It shall receive all sums of money offered for deposit in amounts of not less than one dollar nor more than the maximum fixed by the by-laws, which shall in no case exceed five thousand dollars, and invest the same for the use and benefit of the depositor, at such lawful rate and under such regulations as the board may prescribe, and apply the net income in payment of dividends as hereinafter provided. (3017) [6388]

7709. Regulations—Before receiving any deposit it shall establish reasonable and proper regulations for the conduct of its business, including the receipt, investment and repayment of deposits, and cause the same to be kept conspicuously posted in its banking room, and its regulations shall also be printed in full in all passbooks, or other evidences of deposit furnished its customers and the same shall be prima facie evidence of the terms and conditions of their mutual transactions. (R. L. § 3018, amended '07 c. 468 § 5) [6389]

7710. Securities for safe keeping—Safe deposit boxes—Limitation of liability—A mutual savings bank may receive for safe keeping for its depositors obligations of the United States of America or its possessions or of a state or territory of said United States, or of any political subdivision of any such state or territory, and it may provide for, and hire to, its depositors safe deposit boxes in which to keep securities and valuable papers, but the liability of a savings bank to any person or association of persons on account of hiring such safe deposit box or boxes, shall in no event exceed Twenty thousand dollars. ('23 c. 312 § 1)

7711. Deposits by minor or in trust—Joint deposits—Any deposit made in any bank or savings bank, by or in the name of a minor, shall be held for the exclusive right and benefit of such minor, free from the control or lien of all other persons except creditors, and, together with the dividends or interest thereon, shall be paid to him, and his receipt, check, or acquittance in any form shall be a sufficient release and discharge to the bank for such deposit or any part thereof, until a guardian appointed in this state for such minor shall have delivered to the bank a certificate of his appointment. Whenever any deposit shall be made by any person in trust for another and no other written notice of the existence and terms of any legal and valid trust shall have been given to the bank, in case of the death of such trustee the same

or any part thereof, and the dividends or interest thereon, may be paid to the person for whom the deposit was made. And whenever any deposit shall be made by or in the names of two or more persons upon joint and several account, the same or any part thereof and the dividends or interest thereon may be paid to either of such persons or to a survivor of them or to a personal representative of such survivor. (R. L. § 3019, amended '07 c. 468 § 6) [6390]

Undetermined whether as to joint depositors' rights are affected between themselves, or protection is solely for bank (145-299, 176+987; 149-239, 183+288).

7712. Action for deposits—Parties—Limitations—When, in any action against a savings bank to recover money deposited therein, such money is claimed by any person not a party to the action, the court, on application of the bank, upon eight days' notice to the plaintiff and such claimant, may order that such claimant be made a party defendant, and thereupon the court shall hear and determine the rights of the several parties to said money, which may remain on deposit at interest during the pendency of the action or be paid into court by said bank. If paid into court, the bank may be stricken from the record as a party. The statutes limiting the time for the commencement of actions shall have no application to actions brought by depositors, their representatives or assigns, against savings banks for deposits therein. (3020) [6391]

7713. Real estate—Any such bank may purchase, hold, or convey land sold upon foreclosure of mortgages owned by it, or upon judgments or decrees in its favor, or in settlement of debts, or received in exchange as part of the consideration of real estate sold by it. But real estate so received in exchange shall not be carried on the books of the bank at a price exceeding the cost of that exchanged, less the cash payment, and all real estate so acquired shall be sold within ten years after its acquirement, unless the time is extended by the public examiner on application of the board of trustees. (3021) [6392]

7714. Authorized securities—The term "authorized securities" whenever used in the statutes and laws of this state shall be understood as referring to the following described securities in which the Trustees of any savings bank shall invest the money deposited therein, and in which a corporate Trustee may invest all moneys received by it in trust, but subject to the provisions of Section 7735, General Statutes 1923. Authorized securities shall be deemed to be securities which at the time of the purchase thereof are included in one or more of the following classes:

1. In the bonds or other interest-bearing obligations of the United States, or in securities for the payment of which and interest thereon the faith of the government is pledged.

2. In the bonds or notes of any state which has not defaulted in the payment of any bonded debt within ten years prior to the making of such investment.

3. In the bonds of any county, city, town, village, school, drainage or other district created pursuant to law for public purposes in Minnesota, or in any warrant, order, or interest-bearing obligation issued by the state, or by any city, city board, town or county therein, provided that the net indebtedness of any such municipality or district, as net indebtedness is defined by Revised Laws of 1905, Section 777, and its amendments, shall not exceed ten per cent of its assessed valuation, or in the bonds of any county, city, town, village, school, drainage or other district created pursuant to law for public purposes in Iowa, Wisconsin and North and South Dakota, or in the bonds of any

city, county, town, village, school district, drainage or other district created pursuant to law for public purposes in the United States, containing at least 3,500 inhabitants, provided that the total bonded indebtedness of any such municipality or district shall not exceed ten per cent of its assessed valuation.

4. On notes or bonds secured by mortgages or trust deed on unencumbered real estate in Minnesota, Wisconsin, Iowa, North Dakota, South Dakota and Montana, worth when improved at least twice and when unimproved at least three times the amount loaned thereon. But not more than seventy per cent of the whole amount of the moneys of the bank shall be so loaned and such investments shall be made only on report of a committee directed to investigate the same and report its value, according to the judgment of its members, and its report shall be preserved among the bank's records.

5. In notes secured by such bonds or mortgages, as the bank under this section is authorized to invest in, but no such bond or mortgage shall be taken as collateral security for more than its par value, nor shall the aggregate amount of securities taken be less than the full amount loaned thereon, and no such loan shall be made for a longer time than one year, nor to a greater amount to any one person than three per cent of the total deposits of the bank. No such bank shall loan in the aggregate, on the security specified in this paragraph, more than one-fourth of its deposits.

6. In the bonds of any railroad company which are secured by first lien upon a railroad within the United States, or a portion thereof, which shall be a first lien upon not less than one hundred miles of main line track thereof, or in the mortgage bonds of any such company of an issue to retire all prior mortgage indebtedness thereof, or in the bonds of any railroad company in the United States which are guaranteed or assumed by another railroad company within the United States; provided that the railroad company, except one whose bonds are so guaranteed or assumed, either issuing, guaranteeing, or assuming any of such bonds, has not within five years prior to such investment failed in the payment of a dividend upon its entire capital stock outstanding of not less than four per cent per annum each fiscal year, and has not within such time defaulted in the payment of any part of the principal or interest of any debt incurred by it and secured by trust deed or mortgage upon its road or any part thereof, or in the payment of any part of the principal or interest of any bonds guaranteed or assumed by it, or in the bonds of any railroad company which have been outstanding not less than fifteen years and which are secured by first lien upon a railroad within the United States, or a portion thereof, which shall be a first lien upon not less than one hundred miles of main line track thereof, upon which bonds there has been no default in the payment of interest in the fifteen years next prior to such investment, or in bonds of corporations secured by a mortgage upon railroad terminals in cities of not less than two hundred thousand population, and which shall be guaranteed by a railroad company that has not defaulted in the payment of interest on any of its bonds for a period of at least ten years prior to the date of such purchase. But no such banks should loan upon or invest in railroad bonds to an amount exceeding in the aggregate twenty-five per cent of its deposits, nor exceeding five per cent of its deposits in the bonds issued, guaranteed, or assumed by any one railroad company.

7. In farm loan bonds issued by any federal land

bank, or by a joint stock land bank in the Federal Reserve district in which Minnesota is situate, in accordance with the provisions of an act of Congress of the United States of July 17, 1916, known and designated as "The Federal Farm Loan Act," and acts amendatory thereto.

8. In bankers' acceptances of the kind and character following:

a. Bankers' acceptances of the kind and maturities made eligible by law for rediscount with or purchase by federal reserve banks, providing the same are accepted or endorsed by a bank, or trust company incorporated under the laws of this state; or by any bank or trust company in the United States which is a member of the federal reserve system.

b. Not more than twenty per cent of the assets of any savings bank shall be invested in such acceptances. Not more than seven per cent of the aggregate amount credited to the depositors of any savings bank shall be invested in the acceptances of or deposited with a trust and banking company or with a national bank of which a trustee of such savings bank is a director.

9. In equipment obligations or equipment trust certificates: Provided, that such obligations or certificates mature not later than fifteen years from their date and are issued or guaranteed by a corporation to which a loan or loans for the construction, acquisition, purchase or lease of equipment have been made or approved by the Interstate Commerce commission, under authority conferred by act of congress of the United States of America or are secured by or are evidence of a prior or preferred lien upon interest in, or of reservation of title to, the equipment in respect of which they have been sold, or by an assignment of or prior interest in the rent or purchase notes given for the hiring or purchase of such equipment, and provided further, that the total amount of principal of such issue of equipment obligations or trust certificates shall not exceed seventy-five per cent of the cost or purchase price of the equipment in respect of which they were issued. The remaining twenty-five per cent of said cost or purchase price having been paid by or for the account of the railroad so constructing, requiring, purchasing or leasing said equipment, or by funds loaned or advanced for the purpose by the government of the United States or one of its agencies or instrumentalities and subordinated in the event of default, in respect of the lien or interest thereof upon or in such equipment or rent or purchase notes, to the lien or interest of said prior or preferred equipment obligations or equipment trust certificates.

10. In the bonds of any company supplying electric energy or artificial gas or both, for light, heat, power and other purposes, or furnishing telephone or telegraphic service, provided that such bonds are secured by a first mortgage on all property of the issuing corporation or by a first and refunding mortgage containing provision for retiring all prior liens, and provided further that the issuing corporation is incorporated within the United States, and if operating outside of Minnesota, is operating in a state or other jurisdiction having a public utilities commission with regulatory powers, and provided such operating corporation has annual gross earnings of at least \$1,000,000, 75 per cent of which gross earnings have come from the sale of gas or electricity or the rendering of telephone or telegraphic service, and not more than 15 per cent from any other one kind of business, and which corporation has a record on its own behalf or for its predecessors, or constituent companies, of having officially

reported net earnings at least twice its interest charges on all outstanding funded indebtedness for the period of five years immediately preceding the investment and having outstanding stock the book value of which is not less than two-thirds of its total funded debt, and which corporation shall have all franchises to operate in the territory it serves in which at least 75 per cent of its gross income is earned, which franchise shall extend at least five years beyond the maturity of such bonds or which have indeterminate permits or agreements with duly constituted public authorities, or in the bonds of any constituent or subsidiary company of any such operating company which are secured by a first mortgage on all property of such constituent or subsidiary company, provided such bonds are to be retired or refunded by a junior mortgage, the bonds of which are eligible hereunder. No such savings bank shall loan upon or invest in bonds of such public utility companies in an amount exceeding in the aggregate 20 per cent of its deposits and surplus, not exceeding five per cent thereof in the bonds of any one public utility company. (R. L. '05, § 3022; amended '07, c. 468, §§ 7, 8; '13, cc. 124, 506; '17, c. 88, § 1; '19, c. 181, § 1; '23, c. 421, § 1; '27, c. 368; '27, c. 422, by adding par. 10) [6393]

Explanatory note—For R. L. '05, § 777, see § 1935, here-in. For Federal Farm Loan Act, See Mason's U. S. Code, Annot., Title 12, §§ 641 to 1021.

7715. Deposit or investment of funds—Its board shall promptly invest all deposits except so much, not exceeding fifteen per cent, as may be required for current necessary disbursements, which it shall retain or deposit in solvent authorized banking institutions in Minnesota or in the cities of New York, Chicago, Boston, Philadelphia, Los Angeles, San Francisco or St. Louis, or in loans payable on demand upon any of the first two classes of authorized securities to the extent only of ninety per cent of their cash market value, but never exceeding par; upon condition always that in case of depreciation below that proportion it shall be immediately restored by additional security of the same classes or at once repaid. But meanwhile so much thereof as cannot be judiciously so invested and as is not deemed necessary to be kept on hand shall be deposited, daily in one or more solvent banks or trust companies. In case of the insolvency thereof, their indebtedness, if any, to a savings bank shall be preferred to that of every other creditor except the United States and this state. Whenever deemed necessary the bank may borrow such funds as may be required for such current necessary disbursements or the demands of its depositors and may pledge collateral therefor. ('25, c. 180)

7716. Prohibited dealings—Except as otherwise provided in this chapter, it shall not directly or indirectly deal in any kind of property or engage in any other business not essential to the transaction of its own, and no officer or director thereof, except as his duties as such officer may require, shall directly or indirectly engage in lending or collecting money or protesting commercial paper, or buying, selling, or exchanging any kind of property in or about its bank. (3024) [6395]

7717. Repayment—Interest—Surplus, when distributed—Every deposit and all dividends credited thereto shall be repaid, after demand, in such manner, at such times and after such previous notice as its board shall prescribe, but it shall not be required to pay a greater dividend than four per cent per annum. Depositors shall receive, as nearly as may be, all the profits after

deducting necessary expenses, and setting aside annually such sum, as such board deems expedient, for a surplus fund for the security of its depositors, and to meet contingencies, until such fund shall amount to fifteen per cent of its deposits. No interest shall be allowed on any money for a longer time than the same is actually on deposit; except that deposits made not later than the tenth day of the month commencing any semi-annual or quarterly interest period or the fifth day of any other month or withdrawn within the last three days of the month ending a quarterly or semi-annual interest period may be treated as on deposit for the entire period or month in which it was so deposited or withdrawn. No dividend shall be declared, credited, or paid unless authorized by yeas and nays vote of its board duly entered upon its minutes, and whenever any dividend in excess of that earned and on hand shall be declared or credited the trustees voting therefor shall be jointly and severally liable to the bank for such excess. The board of every such bank whose surplus amounts to fifteen per cent of its deposits shall, at least once in three years, divide proportionately the excess among its depositors as an extra dividend, and for that purpose may classify them according to character, amount and duration of dealings, and so regulate the dividend that each of the same class shall receive the same ratable proportion. (R. L. § 3025, amended '07 c. 468 § 9) [6396]

102-199, 113+268.

7718. Method of determining surplus—In determining the per cent of surplus held by any such bank, its interest paying stock, notes, and bonds shall be estimated at their market value; notes and bonds having not more than six months' unpaid interest at their face, and real estate not above cost. As to stocks, bonds, and notes having more than six months' accrued and unpaid interest, and all other investments not herein enumerated, their value shall be determined by the public examiner, who may change their valuation from time to time. (3026) [6397]

7719. Annual report—Assets—On or before February 1st of each year its trustees shall cause to be made a thorough examination of all its books, vouchers and other papers and of its assets, liabilities and affairs generally by an experienced and competent accountant and make a written report upon the form prescribed by the public examiner, showing accurately its condition at the close of the preceding calendar year and specifying as to such year the amounts and particulars following:

1. The amount loaned upon notes secured by mortgages, with the names of the states or localities in which the mortgaged premises are located and the amounts paid on the principal of mortgage notes and the amount of mortgages, if any, which have been foreclosed.

2. The cost, par value and estimated market value of all bond investments, stated separately, and the amount of principal on bonds received by payment, redemption, sale or otherwise.

3. The amount of all loans upon pledge of securities, with a statement of the nature and amount of such securities and the amount paid upon the principal of such loans.

4. The amount of the notes and of the bonds upon which interest was in default at the close of the preceding calendar year.

5. The amount invested in real estate giving the description and the cost of each tract.

6. The amount of cash on hand and on deposit in

banks or trust companies, giving the name of each and the amount of each deposit.

8. [sic]. Such other information as the public examiner may require. (R. L. § 3027, amended '07 c. 468 § 10) [6398]

7720. *Same—Liabilities*—Such report shall also state all its liabilities on the morning of January 1, and show:

1. The amount due to depositors, including any dividend to be credited to them for the half year ending on that day;

2. All other debts or claims against it which are or may be a charge upon its assets.

It shall also state the amount deposited during the previous year, and the amounts withdrawn during the same period; the whole amount of interest or profits received or earned, and the amount of dividends or interest credited to depositors; the number of accounts opened or reopened; the number of accounts closed during the year; and the number of open accounts at the end of the year; and such other information as may be required by the examiner. (3028) [6399]

7721. *Verification*—The report shall be verified by the oath of the two principal officers of the institution, and the statement of assets shall be verified by the oath of at least two of the trustees and of the person who made such examination; and any wilful false swearing in regard to such reports shall be deemed perjury, and be punishable accordingly. (3029) [6400]

7722. *Violation of law—Proceedings*—Whenever it shall appear to the examiner, from an examination made by him or otherwise, that any such corporation has violated the law or is conducting its business in an unsafe or unauthorized manner, he shall by written order direct such methods to be discontinued and that its business be conducted in conformity with law. If any such corporation refuses or neglects to comply with such order, or to make any report required by law or by the examiner, or if it shall appear to the examiner that it is unsafe or inexpedient for any such corporation to continue to transact business, he shall report the facts to the attorney general, who shall take such action thereon as the case requires. Such action may be for the removal of one or more of the trustees of such corporation, the transfer of its corporate powers to other persons, its merger and consolidation with another like corporation willing to accept the trust, or such other appropriate action as the facts may require; and the court may grant any such relief in the interests of justice, and, to protect the rights of the parties, may from time to time revoke or modify its orders made in the matter. (3030) [6401]

64-349, 354, 674-1.

7723. *Change of name*—Whenever a resolution shall be adopted by the trustees of such bank expressing their purpose to change its name, they shall cause notice of such purpose, containing the present and proposed name, to be published in the manner provided in this chapter for publication of notice of intention to organize. On completion of such publication, said trustees shall make application to the public examiner to change the name of such bank as specified in such resolution and publication, accompanied by proof of the adoption of the resolution and publication of notice. If such change be approved by the examiner, he shall authorize and direct the same by an order under his hand and seal, and designate a day, not more than thirty days from its date, when such change shall take effect. He shall execute such order in triplicate, one

to be filed with the register of deeds of the county where the bank is situated, one delivered to the bank, and the other filed in his office. From the date named in such order, such bank shall be known and designated by its new name, and under such name shall have the same rights and powers and be subject to the same liabilities as before the change. (3031) [6402]

7724. *Existing banks conformed—Exceptions*—The powers, privileges, and duties conferred and imposed on any savings corporation heretofore organized, by its charter or act of incorporation, are hereby abridged, enlarged, or modified, as each case may require, so that each such charter or act shall be conformed to the provisions hereof; and every such savings corporation shall possess the powers and privileges, and be subject to the duties, liabilities, and restrictions, herein prescribed; but investments heretofore lawfully made shall be unaffected by this section, if the same be conformed to the provisions of this subdivision as rapidly as may be, in the ordinary course of business, without loss or embarrassment to the bank and its patrons: Provided, that savings banks organized and existing prior to the passage of Laws 1879 c. 109 may continue under the laws then in force applicable thereto and amendatory thereof until they reorganize hereunder, unaffected by any provision in the Revised Laws repealing the same, expressly or by implication. (3032) [6403]

7725. *Banks organized under Laws 1867—Capital stock—Amendment of articles*—Any corporation which was incorporated and organized under the General Laws of the State of Minnesota for 1867 for the purpose of doing a savings bank business, may have capital stock of one hundred dollars (\$100) per share, par value, provided such capital shall be at least the sum of twenty-five thousand dollars (\$25,000) in a municipality having a population of not over three thousand (3,000); at least fifty thousand dollars (\$50,000) in one over three thousand (3,000) and not over ten thousand (10,000); at least seventy-five thousand dollars (\$75,000) in one over ten thousand (10,000) and not over twenty thousand (20,000); at least one hundred thousand dollars (\$100,000) in one over twenty thousand (20,000) and not over one hundred thousand (100,000) and at least two hundred thousand dollars (\$200,000) in one over one hundred thousand (100,000), and may amend its articles or certificate of incorporation so as to provide for such capital stock by adopting a resolution specifying the proposed amendment at a regular meeting or a special meeting called for that expressly stated purpose by a majority vote of its entire board of directors, trustees or other managers, and by causing such resolution to be embraced in a certificate duly executed by its president and secretary or other presiding and recording officers, under its corporate seal, and approved, filed, recorded and published in the manner now prescribed for the execution, approval, filing, recording and publishing of a like original certificate. ('11 c. 332 § 1) [6404]

TRUST COMPANIES

Assessments against stockholders by commissioner, see §§ 7699-20 to 7699-24, herein.

Consolidation, see §§ 7699-5 to 7699-11, herein.

Deposits limited, see § 7699-12, 7699-13, herein.

Officers, appointment, etc., see § 7699-4, herein.

Pledges, loans, borrowing money, etc., see §§ 7699-14 to 7699-19, herein.

Stay of proceedings, etc., against trust companies in

possession of commissioner, see §§ 7699-25 to 7699-29, herein.

7726. Trust companies to comply with section 7680—No trust company of this state shall conduct a banking business as defined in section 6326, General Statutes 1913 [7636], without fully complying with the provisions of section 6361, of the General Statutes of 1913 [7680], relating to the reserve requirements of the state banks, as amended by chapter 362 of the Laws of 1915. ('19 c. 117 § 1)

7727. National banks may act as trustees when—Any National Bank in this state granted a special permit by the Federal Reserve Board to act in a fiduciary capacity under the provision of sub-section K of section 11, of the Federal Reserve Act as amended by the act of September 26, 1918, may assign, transfer to, and deposit with the superintendent of banks, and procure his certificate therefor, the kinds and amounts of authorized securities required of a trust company in a city or village wherein such National Bank is located, by section 6405, General Statutes 1913 [7728]. Provided, that such national bank which has a capital of \$500,000 or over shall not be required to deposit such securities for more than 10% of such capital. The securities so deposited shall be held and maintained as a guaranty fund for such national bank for the performance of its duties in such fiduciary capacity.

Whenever such national bank has complied with said section 6405 [7728], as aforesaid, no oath or security shall be required of it in the acceptance and performance of any such trust as provided in section 6410, General Statutes 1913 [7733]. ('21 c. 490 § 1)

7728. Capital—Amount of—Amount required to be paid in—Investment of—Securities deposited—Guaranty fund—Certificate of authorization—Reduction of capital—The capital of every trust company hereafter organized having its principal place of business in any city of less than twenty-five thousand inhabitants shall be not less than fifty thousand dollars; the capital of every trust company hereafter organized having its principal place of business in a city of more than twenty-five thousand and less than one hundred thousand inhabitants shall be not less than seventy-five thousand dollars; the capital of every trust company hereafter organized having its principal place of business in a city of more than one hundred thousand and less than two hundred thousand inhabitants shall be not less than one hundred thousand dollars; and the capital of every trust company hereafter organized having its principal place of business in a city of more than two hundred thousand inhabitants shall be not less than two hundred thousand dollars; but the capital stock of any trust company shall not be in excess of two million dollars. No trust company hereafter organized shall transact any business until all of its authorized capital stock has been paid in, in cash, or, if such authorized capital be more than two hundred thousand dollars, until at least two hundred thousand dollars thereof has been paid in, in cash, and at least fifty per cent of the capital of all trust companies of less than two hundred thousand dollars and twenty-five per cent of the capital of all trust companies of two hundred thousand dollars or more hereafter organized has been invested in one or more of the first, second, third and fourth, classes of authorized securities and railroad bonds as described by that statute, and also in the farm loan bonds issued by the federal land banks duly assigned and transferred to and deposited with the state treasurer, or, if its capital be more than two

hundred thousand dollars, until at least one-fourth thereof has been so invested, assigned, transferred and deposited. The state treasurer shall submit the securities deposited, to the Commissioner of Banks who shall carefully examine the securities offered for deposit and ascertain that they comply with all the provisions of law applicable thereto. Upon receipt of an order of the Commissioner of Banks, the state treasurer shall issue his receipt therefor. Such deposit shall be maintained unimpaired as a guaranty fund for depositors and creditors and for the faithful discharge of its duties, with the right to collect the income thereof and to substitute other like authorized securities of equal amount and value upon approval and order of the Commissioner of Banks.

If the securities comply with the law, the Commissioner of Banks shall issue his certificate of authorization for the trust company to commence business.

The capital stock of any trust company may be reduced with the approval of the commissioner of banks, but not below the respective minimum amounts aforesaid, and no assets shall be returned to the stockholders unless its deposits of authorized securities after such return equal one-fourth of such reduced capital in no event less than twenty-five thousand dollars; nor shall the liability of any stockholder upon any existing contract be affected thereby. (R. L. '05, § 3033; amended '07, c. 225; '11, c. 314, § 1; '27, c. 323) [6405] Authorized securities (85-1, 7, 88+256).

7729. Vacancies in board of directors of trust companies to be filled by qualified members—Each director shall own at least ten shares of its capital stock, and a majority of them shall be residents of this state. Each shall take and subscribe an oath that he will diligently and honestly perform his official duties, and will not knowingly violate or permit to be violated any provision of law relating to trust companies, and that he is the owner in good faith of the stock above specified standing in his name on the books of the corporation; the taking of such oath to be noted on the minutes of the records of the corporation, and filed with the superintendent of banks. Failure of any person selected as director to qualify shall create a vacancy in the board, and all vacancies in the board, however caused, shall be filled by the qualified members; provided, however, that not more than one-third of the membership of such board may be so filled in any one year. (R. L. '05 § 3034, G. S. § 6406, amended '19 c. 30 § 1)

7730. Investments in real estate, etc., how limited—Such corporation may acquire, use, and improve, and for that purpose mortgage, lease, sell, and convey, such real and personal property as may be necessary for the transaction of its business. Any estate or interest in real estate which it may acquire by virtue of the foreclosure of any mortgage, trust deed, or other security, or by the settlement of any obligation or otherwise, in the course of its legitimate business, it may sell or continue to hold and use as deemed for its interests or those of the estate or trust to which the same belongs, and to that end it may become the purchaser at any foreclosure or judicial sale to which it is a party as trustee or otherwise. It may also accept or make any deed, mortgage, or other instrument necessary for the transaction of its business, may loan money and secure such loans by mortgage, trust deed or pledge, purchase notes, bonds, mortgages, and other evidences of indebtedness, and securities, and sell and assign the same, and convert them into cash or into other authorized securities, or securities and property not herein expressly prohibited. It may guarantee a title to se-

curities sold and transferred by it; may become sole surety upon any bond without justification; and may maintain and operate safe deposit vaults. It shall invest none of its capital or surplus in real estate except as herein authorized, nor any of its deposits or trust funds or property therein except as so authorized, or under or by virtue of an express contract, judgment, or other instrument conferring or imposing special power and authority so to do. (3035) [6407]

7731. May act as agent or attorney in fact—It may take and hold in trust any real or personal property, wherever situated, by order, judgment, or decree of any court of record, or by gift, grant, assignment, transfer, devise, legacy, or bequest from, or by lawful contract with, any public or private corporation or individual, and manage the same upon the terms, conditions, limitations, and restrictions therein declared or imposed. It may also act as agent for the signature, counter-signature, registration, transfer, or redemption of certificates of stock, bonds, coupons, or other evidences of indebtedness of any such corporation or individual, or otherwise act as general or special agent or attorney in fact in the acquisition, management, sale, assignment, transfer, incumbrance, conveyance, or other disposition of any real or personal property, the collection of rents, payment of taxes, and generally as the representative of any such corporation or individual. (3036) [6408]

7732. May receive deposits of trust and other funds—It may take and hold on deposit or for safe-keeping money, bonds, stocks, and other securities or personal property which any public officer, or any trustee or other legal representative or any public or private corporation or person may desire or shall be authorized, ordered, or otherwise required by law to deposit in a bank or other safe depository, or to pay into any court of record; and the same may, instead thereof, be paid into or deposited with any such trust company, and, where the deposit is made pursuant to order of court, in such as the court shall designate, and take the receipt of such trust company therefor; and thereupon the depositor and his sureties shall be relieved from liability thereafter accruing so long as such deposits continue. (3037) [6409]

Last clause constitutional (78-228, 80+1118).

7733. May act as assignee, receiver, executor, etc.—It may act as assignee under any assignment for the benefit of creditors, or be appointed and act as a trustee or receiver, as a guardian, as executor of any will, or administrator of any estate, and may accept and perform any other lawful trust conferred by any court, or by any corporation or individual. In the acceptance and performance of any such trust, no oath or security shall be required. (3038) [6410]

As guardian (40-7, 41+232).

7734. Deposit with trust company instead of larger bond—Whenever new or additional security shall be required from any executor, administrator, guardian, assignee, receiver, or other trustee, if the judge or court having jurisdiction deems it expedient, because of the magnitude of the estate or fund or otherwise, to require the maximum security prescribed by law, it may direct any securities belonging thereto to be deposited with any trust company, subject to the order of such trustee, when countersigned by such judge, and fix the amount of the security with reference only to the remainder. No such security shall be withdrawn, nor any part of the principal or interest thereof collected, except by an officer of such company, without the order of such judge duly entered and certified, upon

satisfactory proof that additional security has been furnished, or that the estate or fund has been so reduced that such deposit is no longer required. (3039) [6411]

7735. Investment of trust funds—Responsibility of corporation—It may invest all moneys received by it in trust in authorized securities, and shall be responsible to the owner or cestui que trust for the validity, regularity, quality, value, and genuineness of such investments and securities so made, and for the safe-keeping of the securities and evidences thereof. Whenever special directions are given in any order, judgment, decree, will, or other written instrument as to the particular manner or the particular class or kind of securities or property in which any investment shall be made, it shall follow such directions, and in such case it shall not be further responsible by reason of the performance of such trust. In all other cases it may invest the same in any of said authorized securities, using its best judgment in the selection thereof, and shall be responsible for their validity, regularity, quality, and value thereof at the time made, and for their safe-keeping. It may, in its discretion, retain and continue any investment and security or securities coming into its possession in any fiduciary capacity. (3040) [6412]

7736. Transfer of trusts to company—Condition—The trustees of any estate or property may surrender and resign such trust in favor of such trust company which will accept the same, and convey and deliver to it all property and assets of such trust, upon condition that the grantor, cestui que trust, and all parties in any manner interested in the execution and performance of such trust shall execute, acknowledge, and deliver an instrument in writing, whereby they shall consent to such transfer and the release and discharge of the original trustee, and the appointment of such trust company as his successor. But if either party to the original trust is dead, or does not join in such written consent, or if such original trust was created under a last will, or an order or decree of a court of record, then such transfer shall not be valid except upon the judgment or decree of such court as would have jurisdiction of an action to remove the acting trustee, and full compliance with the terms and conditions of such judgment or decree. (3041) [6413]

7737. Compensation—Commission not deemed interest—For the faithful performance of its duties and discharge of its trust it shall be entitled to reasonable compensation, or such amount as has been or may be agreed upon by the parties, and all necessary expenses, with legal interest thereon, unless otherwise agreed upon. No compensation or commission paid or agreed to be paid by it for the negotiation of any loan, or the execution of any trust, shall be deemed interest within the meaning of the law, nor shall any excess thereof over the legal rate be deemed usury. (3042) [6414]

7738. Trust funds—Investment of accumulations—Any amount not less than one hundred dollars received by it as executor, administrator, guardian, or other trustee, or by order of court, not required for the purposes of such trust, or not to be accounted for within one year, it shall invest as soon as practicable in authorized securities either then held by it or specially procured by it; and the income, less its proper charges, shall become part of the trust estate, and the net accumulations thereon shall be likewise invested, accounted for, and allowed in the settlement of such trust. (3043) [6415]

7739. Trust accounts to be kept separate—Securities, how deposited—Besides its general books of account, it shall keep separate books for all trust accounts. All funds and property held by it in a trust capacity shall at all times be kept separate from the funds and property of the corporation, and all deposits by it of such funds in any banking institution shall be deposited as trust funds, to its credit and as trustee and not otherwise. Every security in which trust funds or property are invested shall at once, upon receipt thereof, be indorsed and transferred to it as trustee, executor, administrator, guardian, receiver, assignee, or other trustee, as the case may be, and not in blank or otherwise, and immediately entered in the proper books as belonging to the particular trust whose funds have been invested therein. Any change in such investment shall be fully specified in and under the account of the particular trust to which it belongs, so that all trust funds and property can be readily identified at any time, by any person. (3044) [6416]

85-1, 88+256.

7740. Dealings and indebtedness prohibited—It shall not engage in any banking, mercantile, manufacturing, or other business, except such as is herein expressly authorized for such a corporation. It shall not lend its funds, moneys, capital, trust funds, or any other property whatsoever, to any director, officer, agent, or employee, nor shall any such director, officer, agent, or employee become in any manner indebted to it by means of any overdraft, promissory note, account, indorsement, guaranty, or any other contract; and any such director, officer, agent, or employee who shall become so indebted to it shall be guilty of larceny of the amount of such indebtedness from the time of its creation. (3045) [6417]

Provisions of 1883 c. 107 § 11 were re-enacted in this section. Indictment sufficient (108-230, 122+11). Constructive trust arising from misappropriation of funds (118-179, 136+861).

See 108-227, 122+4.

7741. Powers of court—Annual report—Every such corporation shall be subject at all times to the further orders, judgments, and decrees of any court of record from which it shall have accepted any trust, appointment, or commission as to such trust, and shall render to such court such itemized and verified accounts, statements, and reports as may be required by law, or as the court shall order in relation to a particular trust. It shall also be subject to the general jurisdiction and authority of the district court of the county of its principal place of business. On or before June 30 in each year it shall render to the public examiner a full and detailed account of its condition, and such further accounts, either in full or in part, or in relation to any particular investments, trusts, funds, or other business as the examiner may from time to time direct or request; and a condensed statement of such annual account, together with a list of its board of directors, approved by the said examiner, shall be published by such corporation in a newspaper of the county of its principal place of business. (3046) [6418]

7742. Violation of law or insolvency—Procedure—The directors and managing officers of such corporation, whenever satisfied that it is, or is about to become, insolvent, shall immediately report such fact to the public examiner; and whenever said examiner shall be satisfied from such report, or from any examination made by him that it is conducting its business in an unlawful or unsafe manner, or that it is

insolvent, he may at once take possession of its books, records, and assets, which shall not be subject to any levy or attachment, nor shall any application for a receiver be entertained by any court, during such reasonable time as may be necessary for further examination. If upon such examination it shall appear to said examiner that its business is being conducted in a safe and lawful manner, and that all creditors except those represented by stock can be paid in full from the assets, he may relinquish possession of its assets to its directors and officers; otherwise he shall apply to a court for the appointment of a receiver, who shall take possession of all its books, records, and assets, and close up its affairs under the direction of the court: Provided, that if at any stage of the proceedings the directors or stockholders shall satisfy the court that such corporation is able to pay all creditors other than themselves, if such showing is approved, after investigation by the examiner, the court may order the return of the assets to the company for liquidation or such other course as the stockholders, in compliance with law, may determine; and in such case the receiver shall be discharged. (3047) [6419]

64-349, 354, 67+1.

7743. Annuity, safe deposit and trust companies—Transfer of securities to state treasurer—All securities, moneys, mortgages, certificates, bonds, notes, receipts, statements, records, and all papers relating thereto which have been heretofore deposited with and been received by the state auditor pursuant to the laws governing annuity, safe deposit and trust companies, shall upon the passage and approval of this act, be transferred and delivered to the state treasurer of Minnesota, and it shall be his duty to receive and safely keep the same. The state auditor is hereby authorized and directed to make all assignments and conveyances to the state treasurer which may be necessary to complete a transfer of the securities, as contemplated by this act. ('05 c. 49 § 1) [6420]

Section 4 repeals inconsistent acts, etc.

7744. Deposit of securities—All securities of annuity, safe deposit and trust companies heretofore required by law, to be deposited with the state auditor shall be hereafter deposited with the state treasurer. ('05 c. 49 § 2) [6421]

7745. Duties of treasurer—All duties heretofore devolving by law upon the state auditor relating to the organization and conduct of annuity, safe deposit and trust companies shall hereafter be required of and be performed by the state treasurer. ('05 c. 49 § 3) [6422]

See '23 c. 155 providing for transfer of securities to State Treasurer, §§ 5334, 5335, herein.

7746. Trust companies—Transfer of securities to superintendent of banks—All moneys, mortgages, certificates, bonds, notes and other securities in the hands of the state treasurer heretofore deposited with him by trust companies, as required by law, and all receipts, statements, records and papers relating thereto shall be transferred and delivered to the superintendent of banks of Minnesota immediately upon the passage of this act, and it shall be the duty of said superintendent of banks to receive and safely keep the same. ('09 c. 495 § 1) [6423]

7747. Powers and duties of treasurer—The state treasurer is hereby authorized and directed to make all assignments and conveyances to the superintendent of banks which may be necessary to complete the transfer of the securities as contemplated by this act. ('09 c. 495 § 2) [6424]

BUILDING AND LOAN ASSOCIATIONS

GENERAL PROVISIONS.

7748. Purpose for which associations may be formed—Existing associations—Building and loan associations may be formed for the accumulation of funds to be loaned to their members to be secured as hereinafter provided; and hereafter no such corporation shall be organized or operated for any such real or nominal purposes otherwise than as herein prescribed. Until otherwise provided by law all existing financial corporations conducting the business of building and loan associations at the time of this act taking effect shall continue to exercise and enjoy all powers and privileges possessed by them under their respective articles of incorporation and the laws applicable thereto then in force not inconsistent with the provisions of this act, and shall remain subject to all duties and liabilities to which they were then subject. (3048) [6425] (Amended '25, c. 260, § 1)

7749. Territorial limits of operation of local associations—Enlargement—Every local association by provision in its certificate of incorporation or by-laws, shall confine its field of operation exclusively to the county of its principal place of business and those immediately contiguous thereto, and upon failure so to do shall, without any other act or proceedings, forfeit all corporate rights and franchises, except to close its affairs provided, that any association now or hereafter incorporated, may enlarge its territory by making application to the State Securities Commission in accordance with the provisions of Sections 3997 to 4000, inclusive, of the General Statutes of 1923, the notice of hearing provided for in said Sections 3997 to 4000, inclusive, shall be inserted in a newspaper published at the county seat of each and every county included in such application. If the commission finds on hearing that there is a reasonable public demand for such service, and the commission is satisfied that the association will be safely and properly managed in its enlarged territory the application shall be approved; otherwise the application shall be denied in whole or in part. (R. L. '05, § 3049; amended '09, c. 164, § 1; '13, c. 302, § 1; '21, c. 96, § 1; '25, c. 260, § 2) [6426]

7749-1. Deemed financial corporations—Purposes of—Local and state associations defined—Building and Loan Associations are financial corporations under public control, authorized solely to accumulate funds to be loaned to their members upon their homes or upon other improved real estate and to otherwise carry on, in accordance with law, the business of building and loan associations.

A local association is one that confines its field of operation to the county in which is located its principal place of business and to counties immediately contiguous thereto.

A state association is one that upon application to the State Securities Commission has been authorized to do business in additional counties. ('25, c. 260, § 3)

7749-2. Who may incorporate—Certificate of incorporation—Contracts—Amendments—Seven or more persons may incorporate to form a building and loan association. Such persons shall subscribe and acknowledge a certificate specifying:

1. The name, the field of operation, the principal place of transacting business. Such name shall distinguish it from other corporations and must include therein the words, "building" and "loan" and end with the word "association," provided that if at any time it

is authorized to do business in added territory it shall include in the name the words, "a state association" in all advertising or literature.

2. The period of its duration, if limited.

3. The names, occupations, addresses, and the number of shares of capital subscribed by each incorporator.

4. In what board its management shall be vested, the date of the annual meeting at which it shall be elected, the names and addresses of those composing the board until the first election and the amount of capital stock subscribed or paid in by each, all of whom shall be residents of the field of operation.

5. The amount of authorized capital stock, which shall be at least One Hundred Thousand Dollars, how the same is to be paid in, the number of shares into which it is to be divided, and the par value of each.

6. The highest amount of indebtedness or liability to which the association shall at any time be subjected.

It may also contain any other lawful provision defining and regulating the powers or business of the association, its officers, directors, members or stockholders.

The certificate of incorporation may be amended as provided by law for corporation, by a two-thirds vote of stockholders of the association attending the meeting in person or by proxy.

No amendment to the certificate of incorporation increasing the amount of capital stock shall be effective without first obtaining the approval of the State Securities Commission. ('25, c. 260, § 4)

7749-3. Application for incorporation—Approval—Certificate of authorization—Filing, recording and publication of certificate of incorporation—No filing fee—The incorporators of any association proposed to be organized under the laws of this state shall execute and acknowledge an application in writing in the form prescribed by the State Securities Commission and shall file the same in its office, which application shall be signed by two or more incorporators, requesting a certificate authorizing the proposed association to transact business at the place, and in the name stated in said application.

The application of the association shall be submitted to and considered by the State Securities Commission in accordance with provisions of Chapter 498, Special Laws 1921. After receiving the certificate of authorization from the superintendent of banks the certificate of incorporation shall be filed with the Secretary of State, who shall record the same and certify that fact thereon. Such certificate and articles shall be filed for record with the register of deeds of the county of the principal place of business as specified in the certificate.

After recording and publication, the articles of incorporation shall be filed with the Superintendent of Banks together with proof of publication.

Every certificate of incorporation shall be published in a qualified newspaper in the county of such principal place of business, for two successive days in a daily, or for two successive weeks in a weekly newspaper.

Building and loan associations shall be exempt from payment of the filing fee provided by law for payment to the state treasurer before filing any certificate of incorporation, renewal or amendment. ('25, c. 260, § 5)

Explanatory note—For Sp. Laws 1921, c. 498, see § 3937, herein.

7750. Security for loans made—Pledge of shares—Contract provisions for payment—Purchase of tax titles

or liens—Borrowing money—Unlawful use of funds—Loans to officers or directors—For every loan made on real estate security a non-negotiable note or bond secured by first mortgage shall be given, which security shall be satisfactory to the directors and shall be accompanied by a transfer and pledge of the shares of stock of the borrower to the association. The shares so pledged shall be held as collateral security for the performance of the conditions of said note or bond and mortgage provided, that the shares, without other security, may be accepted in the discretion of the directors as security for loans to an amount not exceeding ninety per cent of their cash or withdrawal value, as herein provided. Any such association may provide by contract with its borrowers that loans shall be fully paid at a definite period upon receipt of the specified number of payments. The association may purchase a tax or assessment titles or liens affecting property in which it is in any manner interested; and it may borrow money for any legitimate object of its incorporation. No officer or director shall directly or indirectly use the funds of the association except in regular association business transactions; and all loans to directors, officers or agents shall be acted upon in the absence of the applicant and approved only by the unanimous vote of the board of directors. (3050) [6427] (Amended '25, c. 260, § 7)

7751. Accumulation of loan funds—Capital stock—Sale—Amount to be paid in—Borrowing money—Service fees—The association may accumulate funds to be loaned to members upon their homes or upon other improved real estate and to otherwise carry on in accordance with law the business of building and loan associations in the following manner.

First. By sale of its capital stock in accordance with the law, provisions in its certificate of incorporation, and its by-laws. Purchase of stock either by installments or full payment, shall constitute the purchaser a member of the association entitled to all the privileges of membership, until the stock is duly transferred, retired, suspended, forfeited, or withdrawn. Installment stock may be sold on regular or irregular payments.

The association shall issue no preferred stock or shares. All holders or owners shall share alike in net earnings or profits and shall contribute equally to the net losses and expenses according to the value of the shares upon the books of the association. Shares shall be known and designated as installment or paid up shares. Ownership may be evidenced by a pass book, or stock or share certificate issued to a member.

All associations except serial hereafter authorized to transact business must have at least five per cent of its authorized capital stock and a like amount paid in before beginning to carry on business, and at no time shall the amount be diminished below that amount.

Second. Money borrowed as provided by law, articles of incorporation and by-laws, provided that the aggregate amount of money so borrowed shall not exceed eighty per cent of the assets of the association.

Third. Special service fees, including membership fees, which shall not exceed two dollars per share of \$100 each. All service fees of any kind whatsoever shall be explicitly set forth in membership agreements. Failure so to do shall render the agreement null and void. All fees shall be accounted for by the corporation in the same manner as other funds of the association. (R. L. '05, § 3051; amended '13, c. 482, § 1; '15, c. 69, § 1; '25, c. 260, § 6) [6428]

7752. Terms of loans—The terms and conditions upon which it shall receive applications for loans to its members, and consider and vote upon the same, shall be just, equitable, and uniform, and shall be prescribed in full in its by-laws. (3052) [6429]

7753. Calculation of profits—Operating costs—Value of stock—Whenever a distribution or calculation of profits is made, which shall be at least semi-annually, it shall first deduct therefrom its operating costs for the same period, if such profits are sufficient; if not, the balance of the expenses above the profits, shall be carried on the records of the association as "expenses paid," and thereafter deducted from the earliest available net profits. Such balance shall be charged to an account called "permanent expenses," and finally be paid by the proportionate deduction from the value of the shares upon the books of the association. The remainder shall be deemed the true book value of said stock. All operating costs shall be paid from its earnings, and no deductions shall be made from stock payments directly or indirectly, save as herein provided, such expenses in the aggregate shall not exceed annually two and one-half per centum of the total amount of stock payments actually received and to the credit of its members at the time of making such deduction including the dividends duly declared and credited thereon, provided that this limitation shall not apply to associations whose accumulated capital is less than forty thousand dollars, but the annual operating expenses of any such association shall not exceed one thousand dollars. Expenses met by service fees, including membership, shall not be considered as operating costs subject to the limitation of expense herein provided. (3053) [6430] (Amended '25, c. 260, § 8)

7753-1. Reserve fund—Every association shall accumulate a fund to be known as a contingent or reserve fund by setting aside each semi-annual accounting period at least two per cent of its net earnings until the fund shall ultimately be equal to at least five per centum of its accumulated capital and to at least fifty per centum of the book value of all real estate owned by it. Such fund shall not be available for the payment of current expenses so long as the association has undivided profits. It shall not be available for the payment of dividends; but any association may charge against such fund any losses upon investments, whether resulting from depreciation or otherwise, without encroaching upon its undivided profits or its net earnings until the contingent or reserve fund is exhausted. ('25, c. 260, § 9)

7754. Premiums not usury—No premiums for loans made by such association shall be considered or treated as interest or render it amenable to usury laws. (3054) [6431]

7755. Withdrawals—The holder of any shares not in arrears or pledged may withdraw the same upon thirty days' written notice of his intention so to do, given to and duly filed with the secretary of the association at any time after the expiration of six months from the payment of the first cash installment thereon; whereupon his rights to profits and liability for indebtedness for the future shall cease, and he shall receive the amount of such installments, less all arrears and fines. But not over fifty per cent of its monthly receipts shall be so used unless otherwise determined by resolution of the directors. (3055) [6432] (Amended '25, c. 260, § 20)

7756. Delinquent installments—Sale of stock—Whenever any installment, fine, or penalty upon any of its stock continues delinquent for one year, the

directors may cause such stock to be sold according to its by-laws, at a regular monthly meeting, to the highest bidder for cash, and, if there be no outside bidder, to be bought in by one of the officers for the corporation, but no stock shall be sold or bought in for less than its withdrawal value. (3056) [6433] (Amended '25, c. 260, § 10)

7757. Real estate dealings—No such association shall engage in the business of buying and selling or dealing in real estate, but it may secure obligations due to it and the payment of its loans by taking real estate mortgages. It may purchase at any sheriff's judicial, or other sale, public or private, any real estate upon which it has a mortgage, judgment, or other lien, or in which it has any interest. It may acquire title to any real estate on which it holds any lien, in full or part satisfaction thereof, and may sell, convey, hold, lease, or mortgage the same. Also in transactions involving the purchase by a stockholder of improved real estate for home purposes, or for the construction of a home, it may when authorized by its by-laws acquire the title thereof, it may give to such stockholder a contract to convey the same as upon a sale thereof. (R. L. '05, § 3057; G. S. '13, § 6434; amended '19, c. 329, § 1; '25, c. 260, § 11)

7757-1. Books and records to be kept—Failure—Penalty—Every building and loan association shall open and keep such books and accounts as the superintendent of banks may prescribe or approve, for the purpose of keeping accurate and convenient records of its transactions; and every association refusing or neglecting so to do shall forfeit ten dollars for every day of such neglect or refusal, providing that existing books of account shall be considered compliance herewith until such time as the superintendent may otherwise direct. ('25, c. 260, § 12)

7757-2. Retirement of stock—The board of directors of any association may retire all unpledged shares of stock in the manner prescribed in its by-laws, and the holders of such shares are paid the full value thereof less all lawful obligations. ('25, c. 260, § 13)

7757-3. Reports, etc., relating to examinations, etc., submitted to directors—Each official communication from the superintendent of banks or one of his deputies to an association, relating to any examination conducted by the banking department or containing suggestions and recommendations as to the conduct of business of the association, shall be submitted by the officer receiving it, to the board of directors at the next meeting of said board and noted in the minutes thereof. ('25, c. 260, § 14)

7757-4. Auditing committee—Audit of accounts, etc.—The board of directors or president shall appoint at least once a year from its members an auditing committee, or in lieu thereof a certified public accountant, who shall examine the financial condition of the association at least semi-annually and make a written report thereof in writing and in duplicate, which shall be verified by the president and secretary, and attested by two directors stating in detail assets and liabilities at close of preceding semi-annual period. One copy thereof shall be transmitted to the superintendent of banks. The other copy shall be spread upon the minutes of the board and a condensed statement thereof published once by the association in a newspaper of the municipality or county in which is located its principal place of business and proof thereof filed immediately with the superintendent of banks. ('25, c. 260, § 15)

7757-5. Meetings—Notices of—At least fourteen days prior to any annual meeting, and at least seven days prior to any special meeting of stockholders or members, mailed or published notice shall be given to each member, specifying the time, place and purpose thereof; also a notice of any amendment to articles or by-laws, or any resolution or proposition on which action is to be taken. ('25, c. 260, § 16)

7757-6. Advertisements as to capital—No association shall advertise as its capital any amount other or greater than the amount of actual paid-in capital at the time of the advertisement. ('25, c. 260, § 17)

7757-7. Stock purchases—For minors or in trust—Any stock purchase from the association, by or in the name of a minor shall be held for the exclusive right and benefit of such minor, free from the control or lien of all other persons, except creditors, together with dividends thereon, shall be paid to him, and his receipt or acquittance in any form shall be sufficient release and discharge to the association for stock withdrawal or cancellation on maturity, until a guardian appointed in this state for such minor shall have delivered a certificate of his appointment. Whenever any stock purchase shall be made by any person in trust for another and no other written notice of the existence and terms of any legal and valid trust given to the association, in case of the death of such trustee the same or any part thereof and the dividends thereon may be paid to the person for whom the shares were subscribed. And whenever any stock is purchased by or in the names of two or more persons upon joint and several accounts, the same or any part thereof and the dividends thereon may be paid to either of such persons or to a survivor of them or to a personal representative of such survivor. ('25, c. 260, § 18)

7757-8. Consolidation of associations—Any building and loan association may, with the consent and approval of the Superintendent of Banks, consolidate with or be taken over by any other association upon such terms as may be authorized by the respective boards of directors after being authorized so to do by a majority vote of their respective stockholders at any regular or special meeting. This section shall be construed to also include any association taken over by the Superintendent of Banks whether in process of liquidation or otherwise. ('25, c. 260, § 19)

7758. Application of the foregoing provisions—Save as hereinafter provided, the provisions of §§ 7748-7757 shall apply to all building and loan corporations hereafter formed. (3058) [6435]

GENERAL BUILDING AND LOAN ASSOCIATIONS

See laws 1925, c. 260, §§ 7748 to 7757-8, herein.

7759. Application of certain provisions—Sections 7750, 7753 and 7754 shall apply also to existing domestic building and loan associations authorized to transact a general business throughout the state, and the provisions of §§ 7760-7767 shall apply exclusively to such last named corporations. (3059) [6436]

No provision made by R. L. 1905 for the future organization of general building and loan associations. See Report Revision Commission p. 24.

7760. Securities deposited with examiner—Every such association having not less than one hundred thousand dollars paid in cash capital shall at all times keep with the public examiner, a deposit of securities approved by him of at least two hundred thousand dollars as a guaranty fund in trust for its members and creditors. Such securities shall consist of any or

all of the first three classes of authorized securities, or of first mortgages on real estate. So long as such deposit be not reduced below two hundred thousand dollars, it may at any time, substitute like securities, and may collect interest and dividends thereon. (R. L. '05 § 3060, amended '09 c. 24; '15 c. 170 § 1) [6437]

7761. Interest, etc., on securities—Surrender—So long as it remains solvent and faithfully performs all contracts with its members, it may collect and retain all interest, dividends, and premiums accruing on such securities, all dues or monthly payments on stock pledged as collateral thereto, and all balances due or any part thereof. Whenever the minimum required by law will not be reduced thereby, any mortgage or other security so deposited may be withdrawn with the approval of the examiner upon satisfactory proof by affidavit that it has been paid or sold or hypothecated or is needed for foreclosure. (3061) [6438]

7762. Powers—Such association may make loans on real estate security to, and receive deposits from, its members and others; it may purchase at any sale, public or private, any real estate upon which it may have a mortgage, judgment, or other lien, or in which it may have any interest, and may sell, convey, mortgage, lease or improve the same. It may acquire a lot or lots on which a building or buildings may be erected for the convenient transaction of business, and lease such portions thereof as may not be required for its own use. (3062) [6439]

7763. Kinds of stock prohibited and allowed—No such domestic association shall issue preferred stock, but may issue different series of stock. It may issue deposit stock upon the terms and conditions provided in the by-laws; installment stock to be paid in periodical sums, which shall mature when the amount so paid with the dividends thereon shall equal its par value; a dividend bearing prepaid stock, upon which a partial dividend may be paid semi-annually out of the full dividend apportioned thereto; and full paid stock upon which the par value thereof shall be paid in advance, and upon which a full or a definite dividend may be paid, not exceeding the per cent of profits earned by all classes or series of stock at the time when declared, and in the certificate of such stock the right of withdrawal may be waived for a definite time. Such association may issue permanent stock for which the full par value shall be paid at the time of issue, or in such installments as may be provided in its by-laws, and which shall be entitled to dividends not exceeding the per cent of profits earned by all fully participating classes of stock at the time the dividend is declared, to be credited to the stock until the same is fully paid, and afterwards paid in cash. Fully paid permanent stock may upon written approval of the superintendent of banks be retired and cancelled pro rata from time to time, by a majority vote of the stockholders, provided that there shall always remain a paid in cash capital represented by such permanent stock of at least one hundred thousand dollars, which shall not be paid to the holders thereof so long as such association shall have any other legal obligations outstanding. No such association shall issue any certificates of shares until the terms and conditions thereof shall have been approved by the state examiner. (R. L. '05 § 3063, G. S. '13 § 6440, amended '15 c. 170 § 2)

See § 6185 which conflicts with the provision as to retirement).

7764. Withdrawal of stock — Valuation — Times — Any holder of prepaid or instalment stock, except per-

manent stock, whose shares are not in arrears or pledged for a loan, may withdraw the same after twenty-four months from the date of the first payment, and not before. But the board of directors, at any earlier date, may buy in the shares of any such stockholder desiring to withdraw, by paying him the amount paid in thereon less agreed discount of not more than eight per cent. Any such shareholder may give written notice of withdrawal to the secretary, and his liability for further instalments and right to share in future profits shall thereupon cease. At the end of two years he shall receive all monthly payments made on such shares, not including admission fees, less fifty cents for issue and cancellation of certificate, and two per cent. of amount paid, for reserve fund, but, if such shares be in arrears, there may also be deducted a fine of ten cents per share for each thirty days of such delinquency. Failure to give such notice and make payments shall subject any stockholder to a fine of ten cents per share per month, for a period of six months after the last payment made. If the arrearages and fines remain unpaid for six months, the balance of such monthly payments, if any, after deducting the certificate fee, contingent fund, and fines, shall be subject to withdrawal after twenty-four months from first payment, on application of stockholder. If such delinquent shares are not called for within twenty-four months from date of last payment, the balance, if any, to the credit of such shares shall be transferred to the reserve fund, and the stockholder shall have no further claim thereon. If such withdrawing member has made twenty-four or more payments, he shall receive the amounts so paid less the deductions hereinbefore specified, and three-fourths of the net profits credited to his stock. No more than one-half the monthly receipts on withdrawable stock shall be used to pay the withdrawal or maturity value of stock, unless otherwise determined by resolution of the directors. (3064) [6441]

7765. Reserve fund—At the close of each dividend period it shall set apart for a reserve fund not less than five nor more than ten per cent. of the profits for such period, to which shall be added two per cent. of the aggregate instalments paid on all instalment stock withdrawn before maturity, on notice, after two years, and the amount to the credit of all stock delinquent more than two years. (3065) [6442]

7766. Report to public examiner—At the close of each fiscal year of the association the directors shall cause to be made a thorough examination of all its books, vouchers, and other papers, and of its assets, liabilities, and affairs generally for the preceding fiscal year, and a detailed report thereof to the stockholders or members in duplicate on a form prescribed by the examiner, and one copy thereof to be delivered to him within thirty days from the close of such fiscal year together with the prescribed fee, and the other to the stockholders at their annual meeting. It shall contain the following statements: (1) The authorized capital and par value of each share; (2) the number sold during the year; (3) the number canceled or withdrawn; (4) the number remaining in force; (5) the receipts and disbursements; (6) the assets and liabilities. It shall show the amount received as dues under each separate class of stock, and all deductions therefrom for expenses, withdrawals, cancellations, forfeitures, refundments, or otherwise, the profits, if any, credited or subject to credit, the number of shares of each monthly issue or series in force, and the amounts paid in salaries, wages, traveling expenses, rent, post-

age, telegraph and express charges, printing, books, stationery, furniture, office supplies, advertising, and commissions to agents and others. If it appears from such report that said corporation is solvent and is able to meet its obligations, the examiner shall within thirty days issue a new certificate authorizing it to transact business for one year from the date of such report. The secretary shall also transmit to the examiner promptly a certified copy of every semiannual report to its stockholders or members. (3066) [6443] 99-62, 108+472.

7767. Name, what to include—Building and loan associations, as referred to in §§ 7759-7766, shall include all corporations doing savings and loan or investment business on the building society plan. (3067) [6444]

7768. Building and loan associations may become banks—Any general building and loan association heretofore organized and now carrying on business under any law of this state, may, by amendment of its Certificate and Articles of Incorporation, convert into either a State Bank or Trust Company; provided such association shall, at the time of such amendment, have fully paid permanent capital stock of not less than Two Hundred Thousand (\$200,000) Dollars, and shall have retired all classes of capital stock except its permanent capital stock. Such amendment shall be such that the Articles and Certificate of Incorporation shall fully comply with the requirements of the statutes of this State in relation to State Banks or Trust Companies as the case may be, including the change of its corporate name, if necessary. ('21 c. 112 § 1)

7769. Must be approved—Such amendment shall be made pursuant to Section 6185 of the General Statutes of 1913 [7472] and acts amendatory thereof, and the same shall be approved by the State Superintendent of Banks and the State Securities Commission, by their approval endorsed upon the Certificate of Amendment before the same shall be filed or recorded, or become effectual. ('21 c. 112 § 2)

7770. Shall come under banking laws—Upon such amendment, the said corporation shall become subject to and shall comply with all the provisions of law in relation to State Banks or Trust Companies, as the case may be, except as herein otherwise provided. ('21 c. 112 § 3)

CERTAIN INVESTMENT COMPANIES

7771. Investment companies under control of superintendent of banks—No person and no co-partnership, association or corporation, whether local or foreign, heretofore organized or which may hereafter be organized, doing business as a so-called investment, loan, benefit, co-operative, home, securities, trust or guarantee company for the licensing, control and management of which there is no law now in force in this state, and which such person, co-partnership, association or corporation shall solicit payments to be made to himself or itself either in a lump sum, or periodically, or on the installment plan, issuing therefor so-called bonds, shares, coupons, certificates of membership or other evidences of obligation or agreement or pretended agreement to return to the holders or owners thereof money or anything of value at some future date, shall solicit or transact any business in this state, unless such person, co-partnership, association or corporation shall have first complied with all the provisions prescribed in chapter 58 of the Revised Laws of Minnesota, 1905, required of general building and loan

associations, doing business in this state. ('09 c. 333 § 1, amended '11 c. 321 § 1) [6445]

The provisions of R. L. 1905 c. 58 are included in chapter 58 hereof (132-21, 155+765).

7772. Supervision by commissioner—Powers—Fees—The persons, co-partnerships, associations and corporations mentioned or enumerated in the foregoing section are hereby put under the supervision of the state commissioner of banks. The powers, authority, privileges and duties conferred upon him for the purpose of examining, supervising, controlling and regulating the action of each and every class of financial institutions to the full extent to which he may at any time lawfully exercise them, shall each and all, so far as applicable, be exercised by him personally or by deputy in the examination, supervision, control and regulation of the persons, co-partnerships, associations and corporations first hereinbefore mentioned. The fees for examination shall be determined as follows: For each examination a minimum fee of \$50 plus an amount equal to five cents for each \$1,000 of assets in excess of \$150,000, and not exceeding \$5,000,000, and four cents for each \$1,000 of assets in excess of \$5,000,000 and not exceeding \$10,000,000, and three cents for each \$1,000 of assets [in excess] of \$10,000,000, and the actual necessary expenses incurred by the state commissioner of banks in and tending toward the performances of its duties and the exercise of its powers herein referred to shall be paid by the persons, co-partnerships, associations and corporations examined and supervised. ('09, c. 333, § 2; amended '11, c. 321, § 2; '27, c. 215) [6446]

Explanatory note—The words in brackets were omitted from the session laws, but appeared in the law as published.

7773. Soliciting business without authority—Penalty—Any person, co-partnership, association or corporation who or which shall act as principal or agent in doing such business, or in soliciting such business for, or membership or participation in any such co-partnership, association, or corporation, or solicit business for such person or persons doing business as such companies, not authorized to do business in this state, shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not less than one hundred dollars nor more than one thousand or by imprisonment in the county jail of not less than three months nor more than one year or by both such fine and imprisonment. Provided, however, that nothing contained in this act shall apply to domestic mortgage loan companies. ('09 c. 333 § 3) [6447]

7774. Plan to be submitted—Permit—The persons, co-partnerships, associations and corporations hereinbefore referred to are hereby required to lay before the superintendent of banks a comprehensive plan of their intended business; and the superintendent of banks shall consider the same and, if he finds that the same contains no feature or essential proposition which is likely to be injurious to or defraud the public, he shall issue a permit for such person or institution to begin business according to such plan; otherwise such person or institution shall not engage in such business in this state. ('11 c. 321 § 3) [6448]

CREDIT UNIONS.

7774-1. Organization—Definition of—Any seven residents of the State of Minnesota may apply to the Superintendent of Banks for permission to organize a credit union.

A credit union is a co-operative society, incorporated for the two-fold purpose of promoting thrift among its members and creating a source of credit for them at legitimate rates of interest for provident purposes.

A credit union is organized in the following manner:

(a) The applicants execute in duplicate a certificate of organization by the terms of which they agree to be bound. The certificate shall state:

(1) The name and location of the proposed credit union.

(2) The names and addresses of the subscribers to the certificate and the number of shares subscribed by each.

(3) The par value of the shares of the credit union which shall not exceed \$10.00 each.

(b) They next prepare and adopt by-laws for the general governance of the credit union consistent with the provisions of this act, and execute the same in duplicate.

(c) The certificate and the by-laws, both executed in duplicate, are forwarded to the said Superintendent of Banks.

(d) The said Superintendent of Banks shall, within thirty days of the receipt of said certificate and by-laws, determine whether they comply with the provisions of this Act, and whether or not the organization of the credit union in question would benefit the members of it and be consistent with the purposes of this act.

(e) Thereupon the said Superintendent of Banks shall notify the applicants of his decision. If it is favorable he shall issue a certificate of approval, attached to the duplicate certificate of organization and return the same, together with the duplicate by-laws to the applicants.

(f) The applicants shall thereupon file the said duplicate of the certificate of organization, with the certificate of approval attached thereto, with the Register of Deeds of the county within which the credit union is to do business, who shall make a record of said certificate and return it, with his certificate of record attached thereto, to the said Superintendent of Banks for permanent record.

(g) Thereupon the applicants shall become and be a credit union, incorporated in accordance with the provisions of this Act.

In order to simplify the organization of credit unions the said Superintendent of Banks shall, upon the passage of this Act, cause to be prepared an approved form of certificate of organization and a form of by-laws, consistent with this Act which may be used by credit union incorporators for their guidance, and on written application of any seven residents of the State, shall supply them without charge with a blank certificate of organization and a copy of said form of suggested by-laws. ('25, c. 206, § 1)

7774-2. By-laws and amendments to be approved—Any and all amendments to the by-laws must be approved by the said Superintendent of Banks before they become operative. ('25, c. 206, § 2)

7774-3. Unlawful use of words "Credit Union"—It shall be a misdemeanor for any person, association, copartnership or corporation (except corporations organized in accordance with the provisions of this act) to use the words "credit union" in their name or title. ('25, c. 206, § 3)

7774-4. Powers enumerated—A credit union shall have the following powers:

(a) To receive the savings of its members either

as payment on shares or as deposits (including the right to conduct Christmas Clubs, Vacation Clubs and other such thrift organizations within its membership).

(b) To make loans to members for provident or productive purposes.

(c) To make loans to a co-operative society or other organization having membership in the credit union.

(d) To deposit in state and national banks and trust companies authorized to receive deposits.

(e) To invest in any investment legal for savings banks or for trust funds in the state.

(f) To borrow money as hereinafter indicated. ('25, c. 206, § 4)

7774-5. Membership in—Credit union membership shall consist of the incorporators and such other persons as may be elected to membership and subscribe to at least one share, pay the initial installment thereon and the entrance fee. Organizations (incorporated or otherwise) composed for the most part of the same general group as the credit union membership may be members. Credit union organization shall be limited to groups (of both large and small membership) having a common bond of occupation, or association or to groups within a well-defined rural district. ('25, c. 206, § 5)

7774-6. Supervision — Reports — Audits — Revocation of certificate of approval—Fees—Credit unions shall be under the supervision of the Superintendent of Banks. They shall report to him at least annually on or before the 31st day of December on blanks supplied by the said Superintendent for that purpose. Additional reports may be required. Credit unions shall be examined at least annually by the said Superintendent except that, if a credit union has assets of less than \$25,000, he may accept the audit of a certified public accountant in place of such examination. For failure to file reports when due, unless excused for cause, the credit union shall pay to the Treasurer of the State \$5.00 for each day of its delinquency. If the said Superintendent determines that the credit union is violating the provisions of this act, or is insolvent, the said Superintendent may serve notice on the credit union of his intention to revoke the certificate of approval. If, for a period of fifteen days after said notice, said violation continues, the said Superintendent may revoke said certificate and take possession of the business and property of said credit union and maintain possession until such time as he shall permit it to continue business or its affairs are finally liquidated. He may take similar action if said report remains in arrears for more than fifteen days.

The credit union shall pay the same fees to the Superintendent of Banks for examination as are now provided for Building and Loan associations. ('25, c. 206, § 6)

7774-7. Fiscal year—Meetings—Voting at—The fiscal year of all credit unions shall end December 31st. Special meetings may be held in the manner indicated in the by-laws. At all meetings a member shall have but a single vote whatever his share holdings. To amend the by-laws, the proposed amendments must be contained in the call for the meeting and it must be approved by three-fourths of the members then present (which number must constitute a quorum) and by the said Superintendent. There shall be no voting by proxy, a member other than a natural person casting a single vote through a delegated agent. ('25, c. 206, § 7)

7774-8. Annual meeting—Election of directors and committees—At the annual meeting (the organization

meeting shall be the first annual meeting) the credit union shall elect a board of directors of not less than five members, a credit committee of not less than three members and a supervisory committee of three members, all to hold office for such terms respectively as the by-laws provide and until successors qualify. A record of the names and addresses of the members of the board and committees and the officers shall be filed with the Superintendent within ten days of their election. ('25, c. 206, § 8)

7774-9. Officers—Directors—Powers and duties—At their first meeting the Directors shall elect from their own number a President, Vice-President, Treasurer and Clerk, of whom the last two named may be the same individual. It shall be the duty of the Directors to have general management of the affairs of the credit union, particularly:

(a) To act on applications for membership.

(b) To determine interest rates on loans and on deposits.

(c) To fix the amount of the surety bond which shall be required of all officers and employes handling money.

(d) To declare dividends, and to transmit to the members recommended amendments to the by-laws.

(e) To fill vacancies in the Board and in the Credit Committee until successors are chosen and qualify.

(f) To determine the maximum individual share holdings and the maximum individual loan which can be made with and without security.

(g) To have charge of investments other than loans to members.

The duties of the officers shall be as determined in the by-laws, except that the Treasurer shall be the General Manager. No member of the Board or of either Committee shall, as such, be compensated. ('25, c. 206, § 9)

7774-10. Credit committee—Powers as to loans—The Credit Committee shall have the general supervision of all loans to members. Applications for loans shall be on a form, prepared by the Credit Committee, and all applications shall set forth the purpose for which the loan is desired, the security, if any, offered, and such other data as may be required. Within the meaning of this section an assignment of shares or deposits or the endorsement of a note may be deemed security. At least a majority of the members of the Credit Committee shall pass on all loans and approval must be unanimous. The Credit Committee shall meet as often as may be necessary after due notice to each member. ('25, c. 206, § 10)

7774-11. Supervisory committee—Powers and duties—The Supervisory Committee shall—

(a) Make an examination of the affairs of the credit union at least quarterly, including an audit of its books and, in the event said committee feels such action to be necessary, it shall call the members together thereafter and submit to them its report.

(b) Make an annual audit and report and submit the same at the annual meeting of the members.

(c) By unanimous vote, if it deem such action to be necessary to the proper conduct of the credit union, suspend any officer, director or member of committee and call the members together to act on such suspension. The members of said meeting may sustain such suspension and remove such officer permanently or may re-instate said officer.

By majority vote the Supervisory Committee may call a special meeting of the members to consider any matter submitted to it by said committee. The said

committee shall fill vacancies in its own membership. ('25, c. 206, § 11)

7774-12. Capital—Entrance fees—The capital of a credit union shall consist of the payments that have been made to it by the several members thereof on shares. The credit union shall have a lien on the shares and deposits of a member for any sum due to the credit union from said member or for any loan endorsed by him. A credit union may charge an entrance fee as may be provided by the by-laws. ('25, c. 206, § 12)

7774-13. Shares and deposits—Shares may be issued and deposits received in the names of a minor or in trust in such manner as the by-laws may provide. The name of the beneficiary must be disclosed to the credit union. Such deposits shall be held in accord with and in all respects be subject to the provisions of Section 7711, General Statutes 1923, provided that nothing herein shall prevent a credit union from accepting a joint deposit of a member and such member's minor dependents. ('25, c. 206, § 13)

7774-14. Interest on loans—Interest rates on loans made by a credit union shall not exceed one per cent a month on unpaid balances. ('25, c. 206, § 14)

7774-15. Borrowing money—A credit union may borrow from any source in total sum which shall not exceed 50% of its assets. ('25, c. 206, § 15)

7774-16. Loaning money—A credit union may loan to members. Loans must be for a provident or productive purpose and are made subject to the conditions contained in the by-laws. A borrower may repay his loan in whole or in part any day the office of the credit union is open for business. No director, officer or member of committee may borrow from the credit union in which he holds office beyond the amount of his holdings in it in shares and deposits, nor may he endorse for borrowers. ('25, c. 206, § 16)

7774-17. Reserve funds—All entrance fees, fines (which may be provided by the by-laws for failure to make repayments on loans and payments on shares when due), and each year, before the declaration of a dividend, 20% of the net earnings shall be set aside as a reserve fund which shall be kept liquid and intact and not loaned out to members, and shall belong to the corporation to be used as a reserve against bad loans and not be distributed except in case of liquidation.

There shall also be established and at all times maintained a reserve of not less than 5% of the amount of the deposits. ('25, c. 206, § 17)

7774-18. Dividends—On recommendation of the Directors, a credit union may, at the end of the fiscal year, declare a dividend from net earnings, which dividend shall be paid on all shares outstanding at the end of the fiscal year. Shares which become fully paid up during the year shall be entitled to a proportional part of said dividend calculated from the first day of the month following such payment in full. ('25, c. 206, § 18)

7774-19. Expulsion or withdrawal of members—A member may be expelled by a two-thirds vote of the members present at a special meeting called to consider the matter but only after a hearing. Any member may withdraw from the credit union at any time but notice of withdrawal may be required. All amounts paid on shares or as deposits of an expelled or withdrawing member, with any dividends or interest accrued thereto, to the date thereof, shall, as funds become available and after deducting all amounts due

from the member to the credit union, be paid to him. The credit union may require 60 days' notice of intention to withdraw shares and 30 days' notice of intention to withdraw deposits. Withdrawing or expelled members shall have no further right in the credit union but are not, by such expulsion or withdrawal, released from any remaining liability to the credit union. ('25, c. 206, § 19)

7774-20. Voluntary dissolution—The process of voluntary dissolution shall be as follows:

(a) At a meeting called for the purpose (notice of which purpose must be contained in the call) four-fifths of the entire membership of the credit union may vote to dissolve the credit union.

(b) Thereupon they file with the said Superintendent of Banks a statement of their consent to dissolution, attested by a majority of the officers and including the names and addresses of the officers and directors.

(c) The said Superintendent determines whether or not the credit union is solvent. If such is the fact he issues in duplicate a certificate to the effect that this section has been complied with.

(d) The certificate is filed with the Register of Deeds of the county in which the credit union is located, whereupon the credit union is dissolved and shall cease to carry on business except for the purposes of liquidation.

(e) The credit union shall continue in existence for the purpose of discharging its debts, collecting and distributing its assets and doing all other acts required in order to wind up its business, and may sue and be sued for the purpose of enforcing such debts and obligations until its affairs are fully adjusted and wound up, for three years. ('25, c. 206, § 20)

7774-21. Change of place of business—A credit union may change its place of business on written notice to said Superintendent. ('25, c. 206, § 21)

7774-22. Deemed saving bank for purposes of taxation—A credit union shall be deemed savings bank for purposes of taxation. ('25, c. 206, § 22)

7774-23. Laws repealed—All laws and parts of laws in conflict herewith are hereby repealed. ('25, c. 206, § 23)

7774-24. Salary and chattel mortgage loans excepted—Nothing contained in this Act, shall apply to any person engaged in the business of loaning money under Sections 7042 and 7043, General Statutes 1923, nor to any transactions under said laws. ('25, c. 206, § 24)

OTHER CORPORATIONS FOR PROFIT

MANUFACTURING CORPORATIONS

7775. Formation—Purpose—A corporation may be formed for the purpose of engaging in any manufacturing or mechanical business not inconsistent with an honest purpose. The amount of its capital stock shall be fixed and limited by the stockholders in their certificate of incorporation, and shall be divided into shares of not less than ten dollars nor more than one hundred dollars each, but may be increased at any stockholders' meeting called for that purpose. (3068) [6449]

A corporation cannot be organized under this section except for an exclusively manufacturing or mechanical business (40-213, 222, 41+1020). What constitutes a "manufacturing" or "mechanical" corporation within Const. art. 10 § 3 exempting stockholder from liability (90-144, 95+767 and cases cited; 65-263, 68+48; 84-408, 87+1016; 90-501, 97+140). Issue of preferred stock (192 Fed. 945).

124-280, 144+952.

7776. Withdrawal of capital—Liability of stockholders—If the capital stock of a manufacturing corporation is withdrawn and refunded to the stockholders before the payment of corporate debts for which it would have been liable, the stockholders shall be liable to any creditor, to the amount of the sum so refunded to each of them, respectively; but if, in any action under this statute, any stockholder shall be compelled to pay any such debt, he may call upon every stockholder to whom any part of such stock has been refunded to contribute his proportionate share of the sum so paid by him. If the directors shall pay a dividend when such corporation is insolvent, knowing such corporation to be insolvent, or that such dividend would render it so, or when its payment would render it insolvent, those assenting thereto shall be jointly and severally liable in an action on the statute for all debts due from such corporation at the time of such dividend. Every officer who shall intentionally neglect or refuse to perform any duty imposed upon him by law shall be liable for all corporate debts contracted during the period of such neglect, and if the corporation shall violate any provision of law, whereby it becomes insolvent, the directors ordering or assenting to such violation shall be liable in an action under the statute for all debts contracted after such violation. [6450]

After insolvency of corporation and appointment of receiver he alone can sue for capital wrongfully withdrawn (44-37, 46+310). Liability of directors assenting to or engaging in ultra vires corporate acts (41-84, 42+926; 84-408, 87+1016). Action by single creditor to enforce liability of directors. Practice (41-84, 42+926. See 44-37, 40, 46+310; 61-375, 393, 63+1079). Limitation of actions (48-349, 51+117; 66-213, 68+976; 78-124, 80+853, overruled).

124-441, 142+822. 136-10, 161+229. 142-131, 171+309.

FOR MINING AND OTHER PURPOSES

7777. Formation—Purpose—A corporation may be formed for the purpose of mining, smelting, reducing, refining, or working ores or minerals, or for working coal mines or stone quarries and marketing the products, or for manufacturing brick, stone, iron, steel, copper, or other metals, or for buying, working, selling, and dealing in mineral or other lands, or for the whole or any part of said purposes. (3070) [6451]

Articles of incorporation held authorized by this section (65-281, 68+49).

7778. Meetings—Stock in other companies—Fraudulent issue of stock—The directors, managing officers, or stockholders of a mining corporation may meet and transact business without the state, and may establish offices elsewhere; but an office shall always be maintained within the state where legal process may be served. Every such corporation may acquire and hold stock in any other corporation, if a majority in amount of the stockholders agree thereto. Every officer of such corporation or other person who shall fraudulently issue or cause to be issued any stock, scrip, or evidence of corporate debt, or who shall sell, offer for sale, hypothecate, or otherwise dispose of any such stock, scrip, or evidence of debt, knowing the same to be fraudulently issued, shall be guilty of a felony. (3071) [6452]

Acquiring stock in other corporation (65-263, 270, 68+48).

FOR RECLAIMING TIMBER LANDS

7779. How organized—Any seven or more persons of lawful age, inhabitants of this state and owning not less than 5,000 acres of land, no part of which is distant more than two miles from some other part thereof, who are desirous of developing said land by clear-

ing it or parts of it of timber, brush and stumps and by otherwise preparing the same for agriculture, may form a corporation for that purpose by complying with the conditions hereinafter described. ('17 c. 502 § 1)

7780. Certificate—Said persons shall subscribe and acknowledge a certificate specifying:

1. The name of said proposed corporation which shall be in this form: "The Reclamation and Development Association" and the place of its principal office.

2. That it is organized to clear, grub and plow and to do all other things necessary to reclaim and put in condition for immediate agricultural use certain described lands now unavailable for such use because of timber and brush thereon.

3. The names and places of residence of the incorporators with a statement of the amount of land owned by each in said development project, together with a description thereof.

4. That the management of said corporation shall be vested in a board of five directors, the date of the annual meeting at which said board shall be elected and the names and addresses of those composing the board until the first election.

5. That the indebtedness to which the corporation shall at any time be subject shall not exceed a sum equal to seven dollars for every acre of land included within said project.

6. That no capital stock shall ever be issued but that membership in said corporation shall depend upon ownership of land in said development project.

It may also contain any other lawful provisions defining and regulating the powers or business of the corporation, its officers, directors and members. ('17 c. 502 § 2)

7781. Filing and record of certificate—The certificate of every such corporation shall be filed for record with the secretary of state who if he finds that it conforms to law shall record the same and certify that fact thereon. After such record such certificate shall be filed for record with the register of deeds of each county in which any of the land included in such project shall be located. No fee shall ever be charged for such incorporation. ('17 c. 502 § 3)

7782. Publication of certificate—Every such certificate of incorporation shall be published in a qualified newspaper in each of such counties, for two successive days if in a daily or for two successive weeks if in a weekly newspaper. Upon filing with the secretary of state proof of such publication, its corporate organization shall be complete. ('17 c. 502 § 4)

7783. General powers—Every corporation formed under the provisions of this act shall have power:

1. To have succession by its corporate name for the period of thirty years.

2. To sue and be sued in any court.

3. To have and use a common seal and to alter the same at pleasure. ('17 c. 502 § 5)

7784. Election of officers and adoption of by-laws—The board of directors named in the certificate of incorporation shall, as soon after such incorporation has been perfected as it is practicable, elect from its number a president, a secretary and a treasurer and shall adopt by-laws which shall remain effective until and except as amended by the members at any regular or special meeting thereof. ('17 c. 502 § 6)

7785. Regulation as to voting—At every meeting of the members of any such corporation each member shall be entitled to one vote in person, or by proxy made within one year, for each acre of land in said

development project owned by him in his individual, corporate or representative capacity. ('17 c. 502 § 7)

7786. Duty of board—Limitation—It shall be the duty of the board of directors to clear, grub and plow a portion of the land of each member of said corporation included within such project, said portion to be designated by the owner thereof; but in no case shall a greater amount of money be expended upon any piece of land separately owned than is equal to seven dollars (\$7.00) for every acre in such piece of land; and in no case shall more than twenty-five (25) per cent of any such piece of land separately owned be cleared by said board in the manner herein provided. ('17 c. 502 § 8)

7787. Issue and redemption of bonds—For the purpose of providing funds for clearing, grubbing and plowing such parts of said land as may be determined upon and for acquiring the property necessary to accomplish that purpose and for otherwise carrying out the provisions of this act, the board of directors of any such corporation must, as soon after its organization as may be practicable and whenever thereafter the construction fund has been exhausted by expenditures herein authorized therefrom, and the board deem it expedient or necessary to raise additional money for said purposes, estimate and determine the amount of money necessary to be raised, and shall immediately thereafter call a special election, at which shall be submitted to the members of such corporation, the question whether or not the bonds of said district in the amount as determined shall be issued. Notice of such election must be given by mailing a notice thereof to each member in a securely closed, postpaid envelope, addressed to him at his last known place of residence. Such notice must specify the time of holding the election, not less than twenty days after the mailing thereof, the amount of bonds proposed to be issued and the rate of interest proposed to be paid thereon. At such election the ballots shall contain the word, "Bonds" "Yes," and "Bonds" "No," or words equivalent thereto. If a majority of the votes cast are "Bonds—Yes" the board of directors shall cause bonds in said amount to be issued; if the majority of votes cast at any bond election are "Bond—No," the result of such election shall be so declared and entered of record, and whenever thereafter said board in its judgment deems it for the best interests of the districts that the question of issuance of bonds in said amount or any amount, shall be submitted to said members, it shall so declare of records in its minutes, and may thereupon submit such questions to said members in the same manner and with like effect as at such previous election. Such bonds shall be payable in gold coin of the United States in ten series, as follows, to-wit: At the expiration of eleven years, five per cent of the whole number of said bonds; at the expiration of twelve years, six per cent; at the expiration of thirteen years, seven per cent; at the expiration of fourteen years, eight per cent; at the expiration of fifteen years, nine per cent; at the expiration of sixteen years, ten per cent; at the expiration of seventeen years, eleven per cent; at the expiration of eighteen years, thirteen per cent; at the expiration of nineteen years, fifteen per cent; at the expiration of twenty years, sixteen per cent; and shall bear interest at a rate not exceeding six per cent per annum, payable annually, on the first day of January of each year.

The principal and interest shall be payable at the place designated therein. Said bonds shall be each of a denomination of no less than one hundred dollars and

not more than five hundred dollars; shall be negotiable in form, signed by the president and secretary and the seal of the board of directors shall be affixed thereto. Each issue shall be numbered consecutively as issued, and the bonds of each issue shall be numbered consecutively, and bear date as of the time of their issue. Coupons for the interest shall be attached to each bond, signed by the secretary. Said bonds shall express on their face that they were issued by authority of this act, stating its title and date of approval, and shall also state the number of the issue of which said bonds are a part. The secretary shall keep a record of the bonds sold, their number, the date of sale, the price received and the name of the purchaser. ('17 c. 502 § 9)

7788. Bonds—How disposed of—The board may sell said bonds from time to time, in such quantities as may be necessary and most advantageous, to raise money for the purpose of clearing, grubbing and plowing said lands and otherwise fully to carry out the objects and purposes of this act. But said board shall never sell such bonds for less than 90 per cent of the face value thereof. ('17 c. 502 § 10)

7789. Assessment for interest and principal—How made—Said bonds and the interest thereon shall be paid by revenue derived from an annual assessment upon the real property comprised within said project. Each piece of property separately owned shall be assessed in an amount equal to the fraction of the whole amount then necessary to be raised which the labor performed upon said piece of land is of the whole amount of labor performed upon all the land in said project.

The board of directors shall, each year, levy an assessment sufficient to raise the annual interest on the outstanding bonds, and at the expiration of ten years after the issuing of bonds of any issue must each year increase said assessment to an amount sufficient to raise a sum sufficient to pay the principal of the outstanding bonds as they mature. In case of the neglect or refusal of the board of directors to cause such levy to be made as in this act provided any person interested in having such levy made may institute mandamus proceedings in the proper court to compel such levy to be made. ('17 c. 502 § 11)

7790. Assessments—Notice and payment of—On or before the fifteenth day of November in each year the secretary shall give notice in writing to each member of said corporation, stating the amount assessed against his property, that such assessment is due and payable, the time and place at which payment of assessment may be made, that it will become delinquent at six o'clock P. M. on the last Monday of December next thereafter, and that unless paid on that date or prior thereto, five per cent will be added to the amount thereof. The treasurer must attend at the time and place specified in the notice to receive assessments and must keep and deliver to the secretary a complete record of all moneys received, by whom paid, for what land and must give receipt for all moneys so received. ('17 c. 502 § 12)

7791. Assessments become liens—The assessments upon real property and all penalties for delinquencies shall be liens against the property assessed from and after the first day of January for any year next after the same become due and payable and the lien for the bonds of any issue shall be a preferred lien to that for any subsequent issue and such lien is not removed until the assessments are paid or the property sold for the payment thereof. ('17 c. 502 § 13)

7792. Foreclosure of liens—Redemption—Upon failure to pay any assessment herein provided for when the same shall become due, the board of directors of any such corporation may proceed to enforce such lien in favor of said corporation, and the provisions of law applicable, to the foreclosure of liens given to those who contribute to the improvement of real estate, and the provisions for the redemption for sales made thereunder, shall be followed as nearly as possible in the enforcement thereof. ('17 c. 502 § 14)

7793. When bonds may be issued—No such corporation shall be entitled to issue bonds except during the first ten years of its existence. ('17 c. 502 § 15)

7794. Duration—Every such corporation shall be formed for a period of thirty years, but at the expiration of such period it shall nevertheless continue in existence for three years thereafter for the sole purpose of prosecuting and defending actions, closing its affairs, redeeming its bonds and disposing of its property; provided, that if all of the bonds of said corporation and all other obligations thereof have been paid before the expiration of the term of its charter, a majority of the members may vote that it be dissolved, whereupon the board of directors shall cause appropriate actions to be taken to effect such dissolution. ('17 c. 502 § 16)

7795. General corporation laws—The general corporation laws of this state shall apply to all such corporations in so far as they are applicable and not inconsistent with the provisions of this act. ('17 c. 502 § 17)

MORTGAGE AND LOAN COMPANIES

7796. Powers—Mortgage loan companies may acquire, hold, sell, hypothecate, assign, transfer, and convey any obligations thereof, or of any person or other corporation, which are secured by mortgage or other real estate security, and collect, foreclose, compound, compromise, release, satisfy, and discharge the same of record. (3072) [6453]

FARM MORTGAGE DEBENTURE COMPANIES

7797. Formation—Powers—Any three or more persons may form a corporation for the purpose of loaning its money on first mortgages on improved farm lands, and of buying such mortgages and of issuing and negotiating its debentures thereon; such corporation to have the power of executing all contracts, incumbrances, transfers, releases and other instruments necessary to the transaction of such business. ('05 c. 93 § 1) [6454]

Section 26 repeals inconsistent acts, etc.

7798. Capital—"Debenture" in name—Such corporation shall have a paid-up capital of at least forty thousand dollars, and the word "debenture" shall be part of its corporate name. ('05 c. 93 § 2, amended '07 c. 238) [6455]

7799. Name submitted to examiner—Before the execution of the certificate of incorporation of any such corporation, its proposed name shall be submitted to the public examiner, who shall compare it with those of corporations operating in this state, and if it is likely to be mistaken for any of them, or to confuse the public as to the character of its business, or is otherwise objectionable, additional names shall be submitted until a satisfactory one is selected, whereupon he shall issue his certificate of approval thereof. ('05 c. 93 § 3) [6456]

7800. Copy of by-laws filed—Within ninety days after the adoption of its by-laws, or of any amendment thereof, a certified copy of the same shall be filed with the public examiner. ('05 c. 93 § 4) [6457]

7801. Character of mortgages—The mortgages taken by such corporation in each instance must be a first lien upon the land described therein, the major portion of which land shall be tillable, the whole thereof in actual use for farming purposes; and worth at least twice the amount of the mortgage taken thereon. ('05 c. 93 § 5) [6458]

7802. Debentures, how issued and negotiated—Such corporation may issue and negotiate its debentures in the following manner:

1st. The debentures may be issued in series of not less than \$10,000 each, the respective series to be identified by a common serial letter, and the debentures of a given series to be numbered consecutively.

2nd. As security for the total amount of any given series of debentures, there shall be set apart, in the manner provided by this act, mortgages aggregating in amount at least ten per cent more than the total amount of such debentures.

3rd. Such corporation shall file for record in the office of the register of deeds in each county in which the mortgages securing any given series of debentures are recorded an instrument of transfer, which shall contain a description of each of such mortgages in such county, and shall recite that such mortgages are held by such corporation as security for a certain series of its debentures, giving the date, amount, serial letter and number of each said debentures; when so recorded such instrument shall have the effect to transfer and assign every such mortgage to such corporation as trustee, to be thereafter held by it for the use and benefit of the holder or holders of such debentures.

4th. Such corporation shall file with the public examiner, before any series of debentures are negotiated, an instrument giving the description of such series, showing the date, serial letter, number, amount and terms of each debenture, a description of each mortgage held to secure the same, the appraised value of each tract of land described therein, and the date and place of record of the instrument of transfer required by subdivision 3.

A record of such instrument shall be made by the public examiner in a book to be kept for that purpose; at the time such record is made the public examiner shall certify on each of such debentures that the provisions of this section have been fully complied with. ('05 c. 93 § 6) [6459]

7803. Debentures — Reinvestment—All debentures may be made for such length of time as the corporation may fix, but they shall be subject to call and payment as the mortgages securing the same are paid, upon the conditions following:

In case of the payment of a mortgage securing any debentures before their maturity, the money so received may be reinvested in the same manner as provided in section V [7801] and the mortgage or mortgages so received shall take the place of the mortgage so paid; or, mortgages aggregating a like amount or more, belonging to said company which are not otherwise pledged and not belonging to its reserve fund, may be substituted for the mortgage so paid; and in either case the same instrument shall be executed and filed and the same record shall be made in the office of the register of deeds and in the office of the public examiner as provided in section VI [7802]; and until such reinvestment is made the money received in pay-

ment of any mortgage held as security for any debentures shall not be mingled with the fund otherwise belonging to such corporation, but shall at all times be kept separate and distinct, and if such funds are not reinvested within six months after the receipt thereof, then and thereupon debentures to the amount of such payment shall be called in and paid upon such terms as may be provided therein. ('05 c. 93 § 7) [6460]

7804. Reports to examiner—Mortgages in excess of debentures—All payments of principal on mortgages securing any series of debentures made during any quarter year shall be reported to the public examiner on or before the tenth day of the following quarter, unless oftener required by the public examiner, which report shall show what reinvestments have been made thereof, and in like manner, report shall be made of the payment and discharge of all debentures during such quarter. If the aggregate of the mortgages securing any series of debentures shall at any time exceed more than ten per cent of the total of such debentures, such corporation may retain from any payment on the principal of any such mortgages the amount of such excess. ('05 c. 93 § 8) [6461]

7805. Defaults in mortgages—New debentures—No new debentures shall be negotiated while any default exists in any of the mortgages held as security for any previous issue of debentures, without first complying with all requirements of this act concerning mortgages in default, nor while default exists in the payment of any portion of the interest or principal due on any debenture previously issued. ('05 c. 93 § 9) [6462]

7806. Impairment of capital—If there shall at any time be an impairment of the capital of any such corporation no debentures shall be thereafter issued until the stockholders have paid into the treasury of such corporation the amount necessary to restore such capital, and a certificate showing that the same has been done shall be given to such corporation by the public examiner. ('05 c. 93 § 10) [6463]

7807. Books open for inspection, etc.—The books, records and papers of such corporation pertaining to any series of debentures shall be open for the inspection of the holder of any debenture of such series, and such corporation shall at the request of such holder furnish a statement giving a complete description of all mortgages held as security for such debentures. ('05 c. 93 § 11) [6464]

7808. Other indebtedness—Such corporation shall not at any time incur any indebtedness, except upon its debentures, and for the usual and necessary expenses incident to the transaction of its business. ('05 c. 93 § 12) [6465]

7809. Officers, stockholders, etc., restricted—No officer, director, stockholder, agent or servant of such corporation shall directly or indirectly in any manner use any of the funds of the corporation, except in its regular business transactions; neither shall any loan be made to any such officer, director, stockholder, agent, or servant, nor shall they or either of them become surety in any manner for any debt due or payable to such corporation. ('05 c. 93 § 13) [6466]

7810. Debentures lawful investments, when—The debentures of such corporation shall be lawful investments for any trust company, life or fire insurance company organized under the laws of this state and for trust funds in charge of any trustee unless expressly restricted by the person or persons creating such trust; provided, that not more than twenty per centum of the capital of any such company or of any

such trust funds may be so invested. ('05 c. 93 § 14) [6467]

7811. Sale of mortgages—Such corporation may sell, and for that purpose assign, transfer and deliver any of its mortgages not pledged as security for any of its debentures, and not belonging to its reserve fund. ('05 c. 93 § 15) [6468]

7812. Reserve fund—Dividends—At the end of each dividend period after deducting all necessary expenses, losses, interest and taxes due or levied, and after setting apart out of the net profits a sum sufficient to cover any amount then in default on any of the mortgages securing any series of debentures, one-fifth of the remaining net profits for such period shall be set aside as a reserve fund until the same equals one-half of the capital stock. The directors may then declare a dividend of so much of the remainder as they may deem expedient. Whenever in any way impaired such reserve fund shall be raised to such percentage in like manner. The reserve fund may be invested in the manner provided in section V [7801] but no debentures shall be issued on such mortgages. ('05 c. 93 § 16) [6469]

7813. Mortgages in default—In case default shall be made in the payment of the principal or interest due on any mortgage securing any series of debentures for the period of sixty days, such fact shall thereupon be reported to the public examiner, and if such default shall not be removed within thirty days thereafter, the amount so in default shall be charged to the reserve fund, and mortgages or cash belonging to the reserve fund aggregating the amount so in default, shall be transferred from the reserve fund to the debenture fund, and if there be not mortgages or funds in the reserve fund sufficient for this purpose, the balance remaining shall be taken from any funds belonging to such corporation. All cash so transferred to such debenture fund shall be treated as a payment on such default mortgage, and shall be governed by the provisions of section VII [7803] concerning reinvestments, and the same instruments shall be filed and records made in the case of the reinvestment of such funds as is provided in said section VII [7803]. When such transfers shall have been so made, proof thereof shall be furnished the public examiner in such manner as he may prescribe, whereupon the public examiner shall issue a certificate for record releasing such default mortgage from the lien of such series of debentures. ('05 c. 93 § 17) [6470]

7814. Power to hold real estate, etc.—Such corporation may purchase, hold or convey land sold upon foreclosure of mortgages owned by it or held by it as security for its debentures, or upon judgments or decrees in its favor or in the settlement of debts (debts) or received in exchange as a part of the consideration of real estate held by it; but no item of real estate shall be carried upon the books of the corporation at a greater sum than the actual cost thereof, and all real estate acquired by such corporation shall be sold within five years after its acquirement, unless the time is extended by the public examiner on application of the board of directors. Provided, however, that such corporation may acquire and hold the title to such land as may be necessary for an office building for its use, but not more than ten per cent of the capital of such corporation may be so invested. Such corporation may change its location, dispose of its place of business and acquire another upon the written approval of the public examiner. ('05 c. 93 § 18) [6471]

7815. Powers and duties of examiner—Every such

corporation shall at all times be under the supervision and subject to the control of the public examiner. At least annually, and as much oftener as he deems it necessary without previous notice, such examiner, his deputy or assistant, may visit and examine the business and office of every such corporation, verify its books, vouchers and papers, and ascertain its financial condition and ability to perform its functions and fulfill its obligations, and wherein, if at all, it has violated any provision of law, and determine what, if any, further action shall be taken in the premises. For the purpose of making such examination he is authorized to enforce the attendance of witnesses, of persons whose testimony is desired, and the production of books and papers by subpoena or attachment, and may administer oaths to witnesses and compel them to testify. If the examiner is of the opinion that the further operation of such corporation is hazardous to public interests he shall forthwith take possession of its property and report the matter to the governor for appropriate action. ('05 c. 93 § 19) [6472]

7816. Reports to examiner—At least four times in each year, and at any other time when so required by the public examiner, every such corporation shall promptly make and transmit to him in such form and within such time as he shall prescribe a report, verified by its president, vice-president, secretary or assistant secretary, and attested by at least one of its directors, stating in detail under appropriate heads its liabilities and assets at the close of business on the date specified in such request, if upon special request, otherwise on the last business day of the preceding month. Such statement shall be published once at the expense of such corporation in a newspaper of the county of its location, and proof thereof filed immediately with the examiner. ('05 c. 93 § 20) [6473]

7817. Failure to report—Penalties—Every such corporation which shall fail to make and transmit to the public examiner within ten days after the time prescribed by law therefor any report required by the provisions of this act, or by other lawful authority, or shall fail to include therein any matter required by such examiner, shall forfeit to the state the sum of one hundred dollars for every day that such report is withheld or delayed, or that it shall fail to report any such omitted matter, and every such corporation which shall so fail twice in succession to make and transmit any such report shall forfeit its corporate rights and franchises. ('05 c. 93 § 21) [6474]

7818. Execution of instruments—All instruments of every character required by this act to be made on behalf of such corporation, except as herein otherwise provided, shall be signed by its president or vice-president and attested by its secretary or assistant secretary under the seal of such corporation. ('05 c. 93 § 22) [6475]

7819. Insolvency—Duty of examiner—Receiver—Debentures—No such corporation shall make an assignment by reason of existing or probable insolvency. The board of directors, if satisfied that it is, or is about to become insolvent, shall immediately report such fact to the public examiner, who, if satisfied from such report or any other source, that such corporation has failed or refused to pay either the interest or principal due on any of its debentures, has become insolvent, that its books of account are falsely or fraudulently kept, or that it has violated any provisions of law, shall forthwith take possession of its books, records and property. Its property shall not be subject to attachment or levy, nor shall a receiver be

appointed during such reasonable time as he may require for an examination and to apply for a receiver. When appointed, the receiver shall take possession, under the direction of the court, of such books, records and other property belonging to such corporation, together with all mortgages and other property held by it as security for any of its debentures, and shall collect all debts due such corporation, sell or compound bad or doubtful ones and sell all corporate property on such terms as the court shall direct, and when necessary pay corporate debts and enforce the individual liability of stockholders. He shall pay over all moneys received by him and make report of his doings to the public examiner at such times and in such manner as he may prescribe. The moneys received from the securities belonging to any series of debentures shall be applied to the payment of such debentures, and any excess remaining may be applied on the order of the court to the payment of any (unsecured) unsecured indebtedness. Whenever, after report by such directors and before the appointment of a receiver, said examiner shall find the corporation in such condition that all creditors aside from the stockholders can be paid in full from its assets, he may relinquish possession of its property to its proper officers; and whenever at any stage of the proceedings the stockholders of such corporation show the court that it is able to pay all other creditors, and such showing is approved by said examiner, the court may order the property turned over to the stockholders for liquidation or other arrangement and discharge the receiver. ('05 c. 93 § 23) [6476]

7820. Annual fee—Every such corporation shall pay to the public examiner an annual fee based on the amount of debentures outstanding on the first day of December in each year as follows: On the first two hundred thousand dollars or part thereof at the rate of one dollar per thousand dollars; on all in excess of two hundred thousand dollars at the rate of fifty cents per thousand dollars, the minimum fee to be not less than \$100 in any year; which amount shall be paid by the public examiner into the state treasury. ('05 c. 93 § 24) [6477]

7821. Misstatements — Violations—Penalties—Any wilful misstatement of any fact required by this act to be made by any officer, agent or servant of such corporation shall be deemed perjury, and shall be subject to the prosecutions and punishments prescribed by law for that offense. Each and every officer, agent or servant of such corporation, and every other individual who shall knowingly or wilfully do or omit anything, the doing or omissions of which on the part of such corporation, is a violation of the provisions of this act, and who continues or repeats such act or omission for or during more than ten successive days shall be guilty of a felony. ('05 c. 93 § 25) [6478]

CO-OPERATIVE ASSOCIATIONS

7822. Formation—Purposes—A co-operative association may be formed for the purpose of engaging in any lawful mercantile, manufacturing, or agricultural business. Its certificate of incorporation shall be filed for record with the register of deeds of the county of its principal place of business, and thereupon it shall become a corporation. A majority of the incorporators shall be residents of the county of its principal place of business, and its duration without renewal shall not exceed twenty years. (3073) [6479]

Effect of defective incorporation (70-303, 73+147; 93-8, 100+387) Superseded in part by '19 c. 382 and laws amendatory thereof.

7823. Formation — Rural telephone business—Powers—Seven or more persons of lawful age, inhabitants of this state, may, by written articles of agreement, associate themselves together for the purposes of trade or for carrying on an [any] lawful mercantile, manufacturing, agricultural or rural telephone business within this state; and when such articles of association shall have been executed and recorded in the office of the clerk of the city or town in which the business is to be carried on, such persons shall be and become a corporation, and enjoy all the powers and privileges, and can buy and hold stock in other corporations organized for the same general purpose, and be subject to all duties, restrictions and liabilities set forth in all general laws in relation to similar corporations, except so far as the same may be limited or enlarged by this act. (G. S. 1894, § 2903, amended '05 c. 276 § 1) [6480]

Historical—G. S. 1894 § 2903 was 1870 c. 29 § 1, which act was repealed by ch. 108; the provisions of said section 1 being incorporated in part in the preceding section. So far as the above section differs from the Revised Laws, it is to be construed, by virtue of ch. 107, as amendatory or supplementary. See following section. Whether rural telephone company was public service corporation, and as such under legal obligation to afford telephone facilities over its line to all applicants, quare? (139+711).

7824. Same—A co-operative association may be formed for the purpose of engaging in any lawful mercantile, manufacturing, agricultural or rural telephone business. Its certificate of incorporation shall be filed for record with the register of deeds of the county of its principal place of business, and thereupon it shall become a corporation. A majority of the incorporators that reside in this state shall be residents of the county of its principal place of business, and its duration without renewal shall not exceed twenty years. (G. S. 1894 § 2903, amended '05 c. 313 § 1) [6481]

Superseded in part by '19 c. 382 and laws amendatory thereof.

7825. Officers—Management—Every such association shall have a president, a treasurer, and not less than three directors, who shall together constitute a board of managers and conduct its business. Such officers shall be chosen annually by the stockholders, and hold their offices until others have been chosen and qualified. The association shall make its own by-laws, not inconsistent with law, and may therein provide for any other officers deemed necessary, and the mode of their selection. It may amend its certificate of incorporation at any general stockholders' meeting, or at any special meeting called for that purpose, upon ten days' notice to the stockholders. (3074) [6482]

Superseded in part by '19 c. 382 and laws amendatory thereof.
210+29.

7826. Capital — Limit of interest—Shares—The amount of capital stock shall be fixed by the certificate of incorporation, which amount and the number of shares may be increased or diminished at a stockholders' meeting specially called for that purpose; but the whole amount of stock shall never exceed one hundred thousand dollars, and, in case of a creamery association, shall not exceed twenty-five thousand dollars. Within thirty days after the adoption of an amendment increasing or diminishing its capital, it shall cause the vote so adopting it to be recorded in the office of the register of deeds where its original certificate is on record. No share shall be issued for less than its par value, and no member shall own shares of greater par value than one thousand dollars, or be entitled to more than one vote. It may commence

business whenever twenty per cent of the stock has been subscribed for and paid in, but no certificate of shares shall be issued to any person until the full amount thereof has been paid in cash, and no person shall become a shareholder therein except by consent of the managers. (3075) [6483]

The provision in 1870 c. 29 that no person shall be allowed to become a shareholder except by the consent of the managers held valid (115-451, 133+69).

Superseded in part by '19 c. 382 and laws amendatory thereof.
210+29.

7827. Liability of officers—Dissolution—If such board of managers, or the directors or officers having control of such association, for five consecutive years after its organization shall fail to declare a dividend upon its capital or shares, five or more stockholders, by petition setting forth such facts, may apply to the district court of the county of its principal place of business, for its dissolution. If, upon hearing, the allegations of the petition are found to be true, the court may adjudge a dissolution of the association. (3076) [6484]

7828. Distribution of profits—The profits on the earnings of such association shall be distributed to those entitled thereto by its by-laws, and in the proportions and at the times therein prescribed, which shall be as often as once in twelve months. (3077) [6485]

Superseded in part by '19 c. 382 and laws amendatory thereof. Method for distribution of profits (138-199, 164+804).

7829. Annual report to dairy and food commissioner—Every creamery association, on or before December 30 in each year, shall make a report to the state dairy and food commissioner, or such officer as may at any time, by law, be given the supervision of dairy products. Such report shall contain the name of the corporation, its principal place of business, the location of its creamery, and the number of pounds of butter or other dairy product manufactured by it during the preceding year. (3078) [6486]

7830. Extension of powers of co-operative associations—A co-operative association may be formed for the purpose of selling and otherwise disposing of any of its products or the products of its members or of any manufacturing or agricultural co-operative association, organized under the laws of this state. Its certificates of incorporation shall be filed for record with the secretary of state and thereupon it shall become a corporation. A majority of the incorporators thereof shall be residents of this state, and its duration, without renewal, shall not exceed twenty (20) years. It shall be lawful for such association or associations to sell its own products as well as the products of its members for them, either individually or collectively, and to negotiate the price at which such products may be sold either for itself or for its members, individually or collectively, as the case may be. Co-operative associations, heretofore formed under this act, and their action in relation to any of the things now, or by this amendment authorized, are hereby validated and declared lawful. ('07 c. 293 § 1, amended '09 c. 456 § 1; '19 c. 82 § 1) [6487]

7831. Officers—By-laws—Amendment of articles—Capital stock—Dissolution—Annual report—Every such association shall have a president, a treasurer and not less than three directors, who shall together constitute a board of managers and conduct its business. Such officers shall be chosen annually by the stockholders, and shall hold their offices until others shall be chosen and qualified. The association shall

make its own by-laws, not inconsistent with the law, and may herein provide for any other officers deemed necessary, and the mode of their selection. It may amend its articles of incorporation at any general stockholders' meeting, or at any special meeting called for that purpose, upon ten days' notice to the stockholders. The amount of capital stock shall be fixed by the articles of incorporation, which amount and the number of shares may be increased or diminished at a stockholders' meeting, specially called for that purpose, but the whole amount of stock shall never exceed one hundred thousand dollars. Within thirty days after the adoption of the amendment increasing or diminishing its capital stock, it shall cause the vote so adopting it to be recorded in the office of the secretary of state. No share shall be issued for less than its par value, and no member shall own shares of a greater par value than one thousand dollars, or be entitled to more than one vote. It may commence business whenever 20 per cent of the authorized stock has been subscribed for and paid in, but no certificate of shares shall be issued to any person until the full amount of such subscription therein has been paid in cash, and no person shall become a shareholder therein except by the consent of the managers. If such board of managers, or the directors or officers having control of such association, for five consecutive years after its organization shall fail to declare a dividend upon its capital or shares, five or more stockholders, by petition, setting forth such fact, may apply to the district court of the county, wherein is situated its principal place of business in this state, for its dissolution. If, upon hearing, the allegations of the petition are found to be true, the court may adjudge a dissolution of the association. The profits on the earnings of such association shall be distributed to those entitled thereto by its by-laws and in proportions and at the times therein prescribed, which shall be as often as once in twelve months. Every corporation organized under the terms of this act shall, on or before December 30th, in each year, make a report to the state dairy and food commissioner; such report shall contain the name of the corporation, its principal place of business in this state, and generally a statement as to its business, showing total amount of business transacted, its profits and losses. ('07 c. 293 § 2) [6488]

Superseded in part by '19 c. 382 and laws amendatory thereof (138-201, 164+805).

7832. Same—Stock in other corporations—Any corporation heretofore or hereafter organized under the provisions of section 3073, Revised Laws of 1905 [7822], or chapters 276 or 313, General Laws 1905, is hereby authorized, in addition to those other powers to it granted, upon an affirmative vote of a majority of its directors or other governing body, had at any regular meeting or any special meeting called for that purpose, to subscribe to the capital stock of any corporation organized under the provisions of this act, pay for the same, and thereafter, in like manner, vote the same and exercise all the usual powers of a stockholder in a corporation, subject to the limitations herein set forth. ('07 c. 293 § 3, amended '09 c. 280 § 1) [6489]

Explanatory note—For Laws 1905, c. 276, see § 7823, herein.

For Laws 1905, c. 313, see § 7824, herein.
Superseded in part by '19 c. 382 and laws amendatory thereof, for which see §§ 7834 to 7847.

7833. Rural telephone companies—Place of business—Stockholders' meetings, where held—All rural telephone companies or associations, organized or incor-

porated under any of the laws of this state shall have its principal place of business in the township, city or village designated in its articles of incorporation as such; provided, that any officer of such company may transact the business pertaining to his particular office in any township, city or village into which such township, city or village, the lines of such company extend, or in any city or village within any such township, and provided further, that any such rural telephone company whose lines extend into more than one township may hold its stockholders' meeting in any township, city or village through or into which its lines extend, or in any city or village within any such township as its stockholders, or members may from time to time designate at a previous annual meeting, or a special meeting called for that purpose, but until a different place is so designated the township, city or village named as its principal place of business shall be the place for holding all stockholders' meetings thereof and when a place is so designated it shall be and remain the place for holding all stockholders' meetings until again changed by a vote of the stockholders as aforesaid, and it shall be the duty of the officer calling any such meeting to procure a place of meeting in the township, city or village so designated; and state the location of same in his notice of the meeting. ('11 c. 360 § 1) [6490]

SUPPLEMENTARY LAWS

78 47-4 For partial repeal of §§ 7834 to 7846, see §§ 7836-2, 7838-4 herein.

Application of "Blue Sky Law" to co-operative associations, see § 3996-2.

7834. Co-operative associations—Who may organize—Purpose—Powers—A co-operative association may be formed for the purpose of conducting any agricultural, dairy, marketing, warehousing, commission, contracting, building, mining, telephone, manufacturing, or any mechanical, mercantile or electrical heat, light or power business, or for all such purposes or for any other lawful purpose, upon the co-operative plan, and in addition to other powers, such co-operative association, shall have the power either as agent or otherwise to buy, sell or deal in its own products, the products of its individual members or patrons, the products of any other co-operative association or of its members or patrons, whether such co-operative association be organized under the provisions of this act or otherwise. It shall be lawful for such co-operative association to sell its own products as well as the products of its members or patrons for them, or the products of any other co-operative association or of its members or patrons for them, as the case may be, either individually or collectively, and to negotiate the price at which such products may be sold either for itself or for its members or patrons, or such other co-operative association and its members or patrons, individually or collectively, as the case may be; also to enter into or become a party to any contract or agreement either for itself or for its individual members or patrons, or between it and its members. For the purpose above stated such co-operative associations shall have the power and authority as a corporation to purchase and hold, lease, mortgage, encumber, sell, exchange and convey such real estate, buildings and personal property as the business of the association may require, also to erect buildings or other structures or facilities upon its own lands or leased grounds, or upon right of way legally acquired by such co-operative as-

sociation. Such co-operative association shall also have the power and authority to issue bonds or other evidence of indebtedness and to borrow money to finance the business of the association, or to make advances to its members or patrons upon produce delivered by such members or patrons to the association; provided, however, that the indebtedness so incurred shall not exceed the limit of indebtedness fixed in the articles of incorporation of such co-operative association, as hereinafter required. For the purpose of empowering and authorizing co-operative association incorporated under the provisions of this act to join with other co-operative associations in this state or other states, whether incorporated under this act or under the laws of any other state, to form district, state or national organizations or market agencies, any co-operative association incorporated under this act, by vote of the governing board thereof may purchase, acquire, hold or dispose of the stock of any other co-operative association or corporation, whether incorporated under this act or under the laws of any other state, and assume all rights, interests, privileges, responsibilities and obligations arising out of the ownership of such stock. A co-operative association incorporated under this act shall also have the power and authority, either for itself or for its individual members or patrons, to do and perform every act and thing necessary or proper to the conduct of its business or the accomplishment of the purposes set forth in this act, and in addition any other rights, powers or privileges granted by the laws of this state to ordinary corporations, except such as are inconsistent with the expressed provisions of this act.

For the purpose of this act a co-operative association shall be defined as a corporation, company, society, exchange, union, guild or association organized for the purpose of transacting business with or for its members and others, individually or collectively, for mutual benefit and in a co-operative manner, and the plans of organization and the business practices of which shall be stated in its articles of incorporation and by-laws and shall provide (a) that the ownership of capital stock therein by any individual stockholder shall not exceed the par value of one thousand dollars (\$1,000.00); and (b) that stockholders shall be restricted to only one vote in the affairs of the association; and (c) that shares of stock shall not be transferable except with the approval and consent of the governing board of such association; and (d) that interest shall not be paid on outstanding or paid-up capital stock of the association in excess of eight per cent (8%) per annum; and (e) that the net income of such association, except such amounts as are required to be set aside as a reserve fund or permanent surplus or may be set aside by vote of the stockholders of the association, available for distribution, among the members, or patrons, or both, as the case may be, shall be distributed only on the basis of patronage. No corporation or association hereafter organized in this state shall be entitled or permitted to use the term "co-operative" as part of its corporate or business name or title, or to represent itself as a co-operative association, unless it has complied with the provisions of this act, or any other law of this state now existing or hereafter enacted providing for the incorporation of co-operative associations. Any corporation or association which violates this provision shall be guilty of a misdemeanor. ('19 c. 382 § 1; amended '21 c. 23 § 1; '23 c. 326 § 1)

7835. Organizers—Articles of incorporation—Contents and filing—A co-operative association may be or-

ganized under the provisions of this act by five or more incorporators, who may act for themselves as individuals or as the agents of other co-operative associations, whether organized under this act or otherwise.

Persons forming a co-operative association under this act shall sign and acknowledge written articles of incorporation specifying (a) the name of the association, its purpose and the general nature of its business and the principal place of transacting the same. Such name shall distinguish it from all other corporations, domestic or foreign, doing business in the state, and shall be preserved to it during its corporate existence; and (b) the period of its duration, which shall not exceed thirty (30) years without renewal; and (c) the amount of its capital stock, the number of shares into which it shall be divided, the par value of each share and in what manner it shall be paid; provided, however, the corporations organized under this act or under any other act providing for the incorporation of co-operative associations may issue common and preferred stock having different par values, and only the common stock shall carry voting power; and (d) the highest amount of indebtedness to which the association shall at any time be subject, which limitation may be fixed in a stated amount or based upon the amount of its paid-in capital, or upon the amount of its paid-in capital and permanent surplus; and (e) the names and places of residence of the incorporators and whether such incorporators are acting for themselves as individuals or as the agents of other associations; and (f) in what governing board its management shall be vested, the date of the annual meeting of the stockholders at which such governing board shall be elected, the names and places of residences of those who shall compose such governing board until the first annual meeting of the stockholders and (g) the articles of incorporation, may also contain any other provision defining and regulating the powers or business of the association and the duties and responsibilities of its officers, directors, trustees, members and stockholders; and (h) shall state the period of the fiscal year of the association. Co-operative associations may also be formed without capital stock. Such non-stock associations may be incorporated for any of the purposes set forth in Section 1 of this act and shall have the same powers and authority as conferred upon associations with capital stock.

Persons who desire to organize a co-operative association under the provisions of this act shall submit to the Attorney General in duplicate written copies of the proposed articles of incorporation of such proposed co-operative association for examination and approval. If upon such examination by the Attorney General such proposed articles of incorporation are found to be in proper and legal form and if the purposes of such proposed co-operative association and the other provisions of such proposed articles of incorporation are found to be within the provisions of this act, the Attorney General shall endorse such proposed articles of incorporation with his approval and the incorporators shall thereupon be entitled to proceed with the incorporation of the proposed co-operative association in the manner hereinafter provided. Proposed amendments to such articles of incorporation and the by-laws and amendments thereto of such co-operative associations shall also be subject to examination and approval by the Attorney General as above provided and the articles of incorporation and by-laws and amendments thereto of any such co-operative association shall

not be effective or held to be binding upon the members of such association unless they have been so examined and approved by the Attorney General. Co-operative associations which come within the provisions of this act shall not be subject to the action or approval of the State Securities Commission as to the provisions of their articles of incorporation or by-laws or with reference to the sale of their capital stock or securities.

The articles of incorporation of any co-operative association organized under this act, or amendments to such articles of incorporations, shall be published in a legal newspaper in the county of the principal place of business of such co-operative association for two successive issues. The original articles of incorporation, or a certified copy thereof, verified as such by the affidavits of two of the incorporators, shall be filed with the Secretary and a copy thereof, certified as above required shall be filed and recorded in the office of the register of deeds of the county in which the principal place of business of the association is located. For filing the articles of incorporation or amendments thereto with the Secretary of State there shall be paid to the state treasurer a fee of five dollars (\$5.00). ('19 c. 382 § 2, amended '21 c. 23 § 2; '23 c. 326 § 2)

7836. Capital — Limits of interest — Vote — The amount of the authorized capital stock of the association shall be fixed by the articles of incorporation. The amount of the authorized capital stock and the number of shares may be increased or diminished at any regular meeting of the stockholders of the association or at any special meeting of the stockholders called for such purpose, in the manner hereinafter provided for amending the articles of incorporation.

Within thirty (30) days after the adoption of an amendment increasing or diminishing the authorized capital stock, a copy of such amendment and a statement of the proceedings and the vote by which such amendment was adopted shall be filed or recorded in the offices where the articles of incorporation were filed or recorded, as provided in Section 2, of this act. The association may commence business whenever twenty per cent (20%) of the authorized capital stock has been subscribed and paid in and the amount of the capital stock outstanding shall at no time be diminished below twenty per cent (20%) of the amount of the authorized capital. No share shall be issued for less than its par value nor until the same has been paid for in cash or its equivalent and such payment has been deposited with the treasurer of the association.

Any association organized under this act may limit the amount of stock or the number of shares of stock therein which may be issued to or owned by an individual person or association, which in the case of an individual shall not exceed the amount of \$1,000 of the par value of such stock, and which in the case of an association shall not exceed more than ten per cent (10%) of its paid in capital and permanent surplus. Any co-operative association organized under this act may acquire and hold stock in any other corporation organized under any law of this state or of any other state of the United States, the purpose of which may be a federation of co-operative associations or for the purpose of forming a district, state or national marketing, sales or service agency or for the purpose of acquiring marketing facilities at terminal or other markets in this state or other states to an amount not exceeding ten per cent (10%) of the paid-in capital and permanent surplus of such co-operative association. A stockholder in any co-operative association

organized under this act shall not be entitled to more than one vote which shall be in person, or by mail as hereinafter provided, and not by proxy, except that any such co-operative association that is a stockholder in any other corporation shall have the power and authority by its board of directors or by its stockholders to elect or appoint any person to represent it at any meeting of the stockholders of any corporation in which it owns stock and the person so elected or appointed shall have full power and authority to represent such co-operative association and also to cast its vote at any such meeting. Stock in any co-operative association organized under this act shall be sold or transferred only with the consent and approval of the board of directors and the by-laws of such co-operative association shall provide that it shall have the first privilege of purchasing stock offered for sale by any stockholder. Any stock so acquired by the board of directors for such co-operative association may be held as treasury stock or may be retired and cancelled. Any stockholder who knowingly, intentionally or repeatedly violates the provisions of the by-laws adopted by any co-operative association organized under this act may be required by the board of directors of such co-operative association to forfeit his stock, in which case the association shall refund to such stockholder the par value of his stock or in case the book value of such stock shall be greater than the par value, such stockholder shall be paid the amount of the book value of such stock. Stock so forfeited shall be retired and cancelled by the board of directors and such stockholders shall thereafter have no rights, privileges or benefits in such co-operative association.

Any stockholder who is absent from any meeting of the stockholders of any association, organized under the provisions of this act, may, as herein provided but not otherwise, vote by mail on the ballot herein prescribed, upon any motion, resolution or amendment to be acted upon at such meeting. Such ballot shall be in the form prescribed by the board of directors of such association and shall contain the exact text of the proposed motion, resolution or amendment to be acted upon at such meeting and the date of the meeting; and shall also contain spaces opposite the text of such motion, resolution or amendment in which such stockholder may indicate his affirmative or negative vote thereon. Such stockholder shall express his choice by marking an "X" in the appropriated space upon such ballot. Such ballot shall be certified to and signed by the stockholder if an individual, or if a corporation by the president or secretary thereof, and when received by the secretary of the association holding the meeting, shall be accepted and counted as the vote of such absent stockholder at such meeting. ('19 c. 382 § 3, amended '21 c. 23 § 3; '23 c. 326 § 3)

7837. Stockholders meeting—Regular and special—Regular meetings of the stockholders of co-operative associations organized under this act shall be held annually at the principal place of business of the association at such times as shall be designated in the by-laws. At such annual meeting reports covering the business of the association for the previous fiscal year and showing the condition of the association at the close of the fiscal year shall be submitted to the stockholders by the officers, and directors shall be elected for such terms of office as shall be prescribed in the by-laws of the association. The secretary of the association shall give notice of such meeting by publication in a legal newspaper published in the county of the principal place of business of such association at least two (2) weeks previous to the date of such meet-

ing or by mailing notice thereof to each and every stockholder personally or in case of an association to the secretary thereof at his last known post office address not less than fifteen (15) days previous to the date of such meeting.

Special meetings of the stockholders may be called by a majority vote of the directors of the association or upon the written petition of at least ten per cent (10%) of the stockholders, in which case it shall be the duty of the president of the association to cause notice of such meeting to be given as above provided. Such notice shall state the time, place and purpose of such special meeting and shall be issued within ten (10) days from and after the date of the presentation of such petition and such special meeting shall be held within (30) days from and after the date of the presentation of such petition. Upon the mailing of any notice of a regular or special meeting of the stockholders of any association, as provided by this act, the secretary of such association shall execute a certificate, setting forth a correct copy of such notice and showing the date of the mailing thereof and that the same was mailed within the time and in the manner prescribed by this act. Such certificate shall be made a part of the record of such meeting. Failure of any stockholder to receive any such notice shall not invalidate any action which may be taken by the stockholders at any such regular or special meeting. ('19 c. 382 § 4, amended '21 c. 23 § 4; '23 c. 326 § 4)

7838. Quorum—At any regular or special meeting of the stockholders of any association incorporated under this act a quorum necessary to the transaction of business shall be at least twenty per cent of the total number of stockholders in the association when the number of stockholders in such association does not exceed two hundred and in associations having a larger number of stockholders fifty stockholders present in person shall constitute a quorum. The fact of the attendance of a sufficient number of stockholders to constitute a quorum shall be established by a registration of the stockholders of the association present at such meeting, which registration shall be verified by the president and secretary of the association and shall be reported in the minutes of such meeting. No action by any association organized under this act shall be valid or legal in the absence of a quorum at the meeting at which such action may be taken. ('19 c. 382 § 5, amended '21 c. 23 § 5; '23 c. 326 § 5)

7839. Directors — Election of — Duties — Officers —Every co-operative association organized under this act shall be governed by a board of not less than (5) directors, who shall be members or duly elected or appointed representatives of members of the association and who shall be elected at the annual meeting by the stockholders for such terms and in such manner as the by-laws of the association shall prescribe. The officers of the association shall be a president, one or more vice-presidents, a secretary and a treasurer, who shall be elected annually by and from the directors. The offices of secretary and treasurer may be combined and, when so combined, the person filling such office shall be termed "Secretary-treasurer." The stockholders shall have the power at any regular or special stockholders' meeting regularly called in the manner above provided, to remove any director or officer for cause and to fill the vacancy caused by such removal. ('19 c. 382 § 6, amended '21 c. 23 § 6; '23 c. 326 § 6)

7840. Earnings—Reserve fund—Distribution —For the purposes of this act all earnings received by any such co-operative association resulting from the purchase and sale or handling of commodities, whether

for the association or its members or patrons, or by withholding a portion of the proceeds payable to such members or patrons for their products for the purposes of the association, and all earnings resulting from commissions, assessments or dues collected from such members or patrons, or otherwise resulting from the operations of such association for and during its fiscal year, shall be considered and termed as "income." From the amount of such income shall be deducted the costs of the operations of such association and in addition thereto there shall be a reasonable and adequate reserve for depreciation of physical properties and a reserve against other possible losses and it shall be the duty of the board of any such association to make provisions for such reserves for each fiscal year and the balance of such income shall be considered and termed as "gross income."

From the gross income of each fiscal year there shall be deducted an amount sufficient to pay interest for such year on the paid up capital of the association at such rate as may be determined by the board of directors or as may be fixed in the by-laws of the association and which shall not exceed eight per cent annually on the amount of the par value of such stock; also the directors of the association may deduct and set aside such amounts as may be required to provide for the erection of new or additional buildings or for additional machinery or equipment or to pay any indebtedness incurred for such purposes, and the balance of such gross income shall be considered and termed as "net income."

For the purpose of creating a reserve for permanent surplus, an association organized under this act may set aside all of its net income for its first and second fiscal years but at least ten per cent of the annual net income shall be so set aside for such purpose until such reserve for permanent surplus shall equal fifty per cent of the paid up capital and such reserve for permanent surplus may be fixed by the by-laws of the association at an amount equal to the paid up capital. In addition to such reserve for permanent surplus the directors of any such association may set aside a sum not to exceed five per cent of the annual net income of such association, which shall be used for the purposes of promoting and encouraging co-operative organization. After provisions shall have been made for such reserves required or permitted as above provided, the balance of such net income for any fiscal year shall be considered and termed as "undivided surplus" for such fiscal year and shall be available for distribution among the members of such co-operative association on the basis of patronage. The stockholders may provide in the by-laws of the association that non-member patrons shall participate in the distribution of such undivided surplus upon equal terms with the member patrons, in which case the amount of patronage refund which shall be due to such non-member patrons shall be credited to their individual accounts and when such credits shall equal the value of a share of stock, a share of stock shall be issued to such non-member patron and he shall thereafter be entitled to the benefits of membership as a stockholder in such association if he is otherwise qualified and eligible for membership therein, and shall assume the responsibilities and obligations attached to such membership as set forth in the articles of incorporation and by-laws of the association.

Patronage refunds from such undivided surplus to members or patrons or to both, as the case may be, of a co-operative association, shall be based upon the con-

sideration of the manner in which the income of such association shall accrue and the source from which the same shall be derived, which shall be stated in the by-laws of the association; and such refunds shall be proportionate to the quantity or value of the commodities handled and the contribution to such undivided surplus on the part of the member or patron, as the case may be; or based upon the commissions, dues or assessments paid by the members or patrons, as the case may be, of such association. Distribution of such undivided surplus shall be made annually on the basis of patronage during the preceding fiscal year and the directors of such association shall present to the stockholders at their annual meeting a report covering the operations of the association during the preceding fiscal year, together with a financial statement of the resources and liabilities of the association and which shall indicate the amount of undivided surplus available for distribution as patronage refund.

Interest shall be paid on the paid-up capital only when the net income of the association for the previous fiscal year is sufficient and such interest shall not be cumulative. If the board of directors of any co-operative association organized under this act shall authorize the payment of interest on the paid-up capital stock in excess of 8% per annum or shall cause the income of such association to be apportioned or distributed in any other or different manner than herein provided, such act shall be cause for the cancellation of the charter of such association, and the attorney general may in the name of the state commence and prosecute appropriate proceedings for the cancellation of such charter. ('19 c. 382 § 7, amended '21 c. 23 § 7; '23 c. 326 § 7)

7841. Not to incur any promotion expense—None of the funds of any association organized under this act shall be used, nor shall any of the capital stock of such association be issued or pledged, nor shall such association be permitted to incur any indebtedness in payment of any promotion of such association or for the payment of commissions, salaries or expenses of any kind, in connection with the promotion of such association; except that a sum not to exceed ten per cent (10%) of the par value of the capital stock sold may be used by officers or committees elected by the stockholders to sell or solicit the sale of stock or for hiring responsible solicitors for such purpose. ('19 c. 382 § 9, amended '21 c. 23 § 9; '23 c. 326 § 8)

7842. Annual reports—Form of—Filing—Every association organized under this act or under other corporation laws of this state, or under the laws of any other state and doing business in this state or which represents itself to be a co-operative association, shall be required to file with the department of agriculture each year a report of its business for its last fiscal year, which report shall be made within sixty (60) days after the close of the fiscal year. Such report shall contain the name of the association, the amount of its authorized and paid-in capital, the names of its officers and directors, a statement of its resources and liabilities and such other information as may be required by the Commissioner of Agriculture. ('19 c. 382 § 10, amended '21 c. 23 § 10; '23 c. 326 § 9)

7843. Associations heretofore organized may come under this act—Any co-operative corporation or association heretofore organized and doing business under prior statutes of this state, or under the laws of other states, or which has conducted its business upon the co-operative plan, which retains the same corporate name or title, may come under the provisions of this act and be bound thereby upon amending its articles

of incorporation to conform to the requirements of this act in the manner hereinafter provided for the adoption of amendments. Any association incorporated under the laws of this state shall be required to submit such proposed amendments of the attorney general for his examination and approval and upon the approval such association shall be entitled to proceed to so amend its articles of incorporation, as provided in section 2 of this act. Co-operative associations organized under the laws of other states shall be required to amend their articles of incorporation, in the manner required by the laws of the state in which such association was incorporated, so as to comply with the provisions of this act subject to examination and approval by the attorney general, as above provided, whereupon it shall be entitled to file a certified copy of its articles of incorporation and amendments thereto with the secretary of state, subject to the fees and requirements prescribed by this act, and such association shall henceforth be considered as a co-operative association in this state and subject to the provisions of this act. Provided, that any co-operative association originally organized under the laws of another state, which has heretofore complied with the provisions of section 11 of said original act, and has received a certificate of incorporation from the secretary of state of Minnesota, shall be, and it hereby is declared to be a de jure corporation under the provisions of this act without any further act by it or any officer of this state, and all acts of any such corporation heretofore had or taken as a Minnesota corporation are hereby in all things validated and confirmed.

Action may be taken by the stockholders of any association organized under this act or subject to its provisions to voluntarily terminate the business of such association, whereupon it shall be the duty of the directors to proceed to liquidate the affairs of such association. Any association may dissolve and cease to exist as a corporation by proceeding under the provisions of section 6636, General Statutes 1913 [8015]; provided, however, that the stockholders of such association have had due and proper notice of such proposed dissolution and that a meeting of such stockholders shall be called, as provided in this act, at which all of the facts may be presented to such stockholders and upon such information they shall be given the opportunity of expressing themselves and taking action upon such proposed dissolution. ('19 c. 382 § 11, amended '21 c. 23 § 11; '23 c. 326 § 10)

Section 2 is § 7835, herein.

7844. Amending articles of incorporation—The articles of incorporation of any association organized under this act or which may elect to come under the provisions of this act may be amended so as to change its corporate name or title, or so as to increase or diminish its capital stock or to change the number and par value of the shares of its capital stock, or in respect to any other matter which the original articles of incorporation of the same kind might lawfully have contained, in the following manner: The board of directors, by majority vote of its members may pass a resolution setting forth the full text of the proposed amendment and also the full text of such section or sections as may be repealed by such amendment. Upon such action by the board of directors, notice shall be mailed to each and every stockholder containing a copy of the resolution so adopted, the full text of the proposed amendment, and also the full text of such section or sections as may be repealed by such amendment. Such notice shall also designate the time and place of

the meeting at which such proposed amendment shall be considered and voted upon, in the same manner as elsewhere provided in this act. If a quorum of the stockholders is registered as being present or represented by mail vote at such meeting a majority of the members so present or represented by mail vote, may adopt or reject such proposed amendment. In case such amendment is adopted, it shall be filed and recorded with the office in which the original articles of incorporation are filed or recorded, together with a copy of the resolution adopted by the board of directors, a copy of the notice given to stockholders and the certificate of the president and secretary verifying the action of the meeting at which such amendment was adopted. ('19 c. 382 § 12, amended '21 c. 23 § 12; '23 c. 326 § 11)

7845. Companies excepted—Existing laws relative to the incorporation and management of rural telephone companies and co-operative creameries, except as specifically repealed by section 13 of this act, shall remain in force and shall not be affected by any of the provisions of this act; provided, however, that any such rural telephone company or co-operative creamery organized under the provisions of existing laws may continue to operate thereunder until they shall come under the provisions of this act. ('19 c. 382 § 13, amended '21 c. 23 § 13; '23 c. 326 § 12)

Section 13 is § 7846, herein.

7846. Laws repealed—Sections 6479, 6481, 6482, 6483, 6485, 6488, 6489, of chapter 58 of the General Statutes of 1913, and amendments thereto, insofar as they conflict with the provisions of this act are hereby repealed; provided, however, that any corporation or association incorporated and operating under the provisions of the laws above specified shall continue to be governed thereby during the period of their corporate period or until they shall elect to come under the provisions of this act. ('19 c. 382 § 14, amended '21 c. 23 § 14; '23 c. 326 § 13)

7847. Application—This statute shall be construed or considered as repealing or amending by implication or otherwise any existing law of this state except as herein stated and set forth, and no statute or law hereafter enacted in this state shall be considered or construed as amending or repealing this act by implication or otherwise, unless so provided in express language in such subsequent enactment. ('23 c. 326 § 14)

7847-1. Stock co-operative associations or corporations may issue additional stock to stockholders—Limit on amount held by individual and on interest or dividends payable—A co-operative corporation or association organized under the laws of Minnesota upon a stock basis and having an authorized capitalization of more than five hundred thousand dollars may, after five hundred thousand dollars in par value of its capital stock has been issued and paid for and is actually outstanding, issue, for cash, additional capital stock to any stockholder, provided that not more than five thousand dollars in par value of the stock of any such co-operative corporation or association shall be issued to or owned by any individual, firm or corporation (except a co-operative association organized under the laws of Minnesota), and provided that no person owning or holding stock in any co-operative corporation or association having a par value in excess of one thousand dollars shall receive or be paid dividends or interest thereon exceeding seven per cent per annum. ('27, c. 23, § 1)

7847-2. Same—Laws repealed—Chapter 382 of the Laws of 1919, Chapter 23 of the Laws of 1921, and

Chapters 264 and 326 of the Laws of 1923, in so far as they conflict with the provisions of this act, and all other statutes and laws of Minnesota in so far as they conflict with the provisions of this act, are hereby repealed. ('27, c. 23, § 2)

Explanatory note—For Laws 1919, c. 382, Laws 1921, c. 23, and Laws 1923, c. 326, see §§ 7834 to 7846, herein. For Laws 1923, c. 264, see §§ 6079 to 6113, herein.

7847-3. Co-operative associations or corporations may purchase and own stock of certain other corporations—Any co-operative corporation or association heretofore or hereafter organized under the laws of Minnesota may purchase, own and hold all or any part of the capital stock of any other corporation, provided only that such corporation has been organized for the purpose of or is engaged in the business of handling, selling, marketing or dealing in the products and commodities handled, sold or manufactured by such co-operative corporation or association, or has been organized for the purpose of loaning money to producers of the agricultural products (including livestock) handled, marketed, purchased or sold by such co-operative corporation or association. ('27, c. 25, § 1)

7847-4. Same—Laws repealed—Chapter 382, General Laws of 1919, Chapter 23, General Laws of 1921, and Chapters 264 and 326 General Laws of 1923, in so far as they conflict with the provisions of this act, and all other statutes and laws of Minnesota in so far as they conflict with the provisions of this act, are hereby repealed. ('27, c. 25, § 2)

Explanatory note—See note to § 7847-2, herein.

7848. Co-operative associations—Purposes—Definition—A co-operative association, society or company may be formed for the purpose of promoting and facilitating the production and marketing of live stock by advancing and lending money upon the obligations of the members of any such association who are producers of live stock in this state, when such obligations are secured by satisfactory collateral or by chattel mortgages on live stock owned by members of any association organized under the provisions of this act.

In construing this act the words "producers of live stock" shall be held to include and mean persons and associations engaged in the breeding and raising of live stock, the feeding of live stock for market and the marketing of live stock.

The words "live stock" shall be held to include and mean cattle, sheep and hogs.

The word "association" shall be held to include and mean society, company or corporation which may be formed under the provisions of this act.

The association shall have power to borrow money for the purpose of lending to its members as aforesaid upon securities taken for loans to its members or upon debentures issued by the association based upon the securities for such loans. ('23 c. 131 § 1)

7849. To be incorporated—Persons forming an association under this act shall sign and acknowledge written articles of incorporation specifying:

- (a) The name of the association, the general nature of its business and the principal place of transacting the same. Such name shall distinguish it from all other corporations, domestic or foreign, doing business in the state, and shall be preserved to it during its corporate existence.
- (b) The period of its duration, if limited, shall not exceed thirty (30) years without renewal.
- (c) The name and place of residence of the incorporators. Associations with the capitalization

of fifty thousand dollars (\$50,000) or less shall have at least seven (7) incorporators and associations with a capitalization of more than fifty thousand dollars (\$50,000) shall have at least fifteen (15) incorporators, a majority of whom in both cases shall be residents of the state.

- (d) In what board its management shall be vested, the date of the annual meeting at which it shall be elected, and the names and places of residence of those composing the board until the first election, a majority of whom shall be residents of the state.
- (e) The amount of capital stock, how the same is to be paid in, the number of shares into which it is to be divided and the par value of each share.
- (f) The highest amount of indebtedness or liability to which the association shall at any time be subject, which may be fixed in a stated amount or by a percentage of its paid-in capital. Provided, however, that indebtedness which is secured by collateral, consisting of chattel mortgages or other securities taken by the association as security for loans made to its members, shall not be taken into account as indebtedness limited thereby.
- (g) To amend its articles of incorporation, as hereinafter provided, and it may also contain any other lawful provision defining and regulating the powers or business of the association, its officers, directors, trustees, members and stockholders. ('23 c. 131 § 2)

7850. Capital stock—Limitations—The amount of the capital stock and the par value of the shares of capital stock shall be fixed by the articles of incorporation. The amount of capital stock and the number of shares thereof may be increased or diminished at any regular meeting of the stockholders of the association or at any special meeting of the stockholders called for such purpose. Within thirty (30) days after the adoption of an amendment increasing or diminishing its capital and after such amendment has been approved by the superintendent of banks the vote by which such amendment was adopted shall be recorded in the office where the articles of incorporation were recorded as provided in section 2 of this act. No share of capital stock shall be issued for less than its par value nor until the same has been paid for in cash or its equivalent and such payment has been deposited with the treasurer. The association may limit the amount of stock or the number of shares which may be issued or owned by one individual, but in no case shall the individual be allowed to own or hold more stock than would represent the par value of one thousand dollars (\$1,000) of such stock, and in case the subscriber for capital stock is an association, such association may be allowed to own and hold shares of such capital stock to an amount not exceeding ten thousand dollars (\$10,000) of the par value of such stock. No stockholder whether an individual or an association shall be entitled to more than one vote in any stockholders' meeting. (In case the stockholder is an association it may elect some member of its association to represent the association in such stockholders' meetings.) Individual stockholders shall vote in person or may be allowed to vote by mail under rules provided in the by-laws of the association. The representative of a stockholding association must be personally present in order to entitle such association to cast its vote at any meeting. No person shall become a stockholder in any association organized under this act by transfer of shares of stock except by consent of

the board of directors and the by-laws may provide that the association shall have the first privilege of purchasing stock offered for sale by any stockholder. Any stock so acquired by the board of directors may be held as treasury stock or may be retired and cancelled.

Any stockholder who knowingly and intentionally violates the provisions of this section or the provisions of the by-laws adopted by any association organized under this act may be required by the board of directors to forfeit his stock, in which case the board of directors shall refund to such stockholder the par value of his stock, or in case the book value of such stock shall be greater than the par value he should be paid the amount of the book value of the same. Stock so incorporated shall be retired and cancelled by the board of directors and such stockholders shall have no further rights or benefits in such association. ('23 c. 131 § 3)

7851. To be approved by superintendent of banks—Before the association shall be considered organized and authorized to do business or sell any shares of capital stock under this act the proposed articles of incorporation of the association and the by-laws proposed to be enacted thereunder shall be submitted to the superintendent of banks of this state for examination and approval and the superintendent of banks shall endorse his approval upon such articles of incorporation and by-laws if same are found to be in accordance with the provisions of this act. ('23 c. 131 § 4)

7852. Articles to be published—After the approval by the superintendent of banks of the proposed articles of incorporation and the proposed by-laws such articles of incorporation shall be published in a qualified newspaper in the county of such principal place of business, for two successive days in a daily or for two successive weeks in a weekly newspaper. The original articles of incorporation, or a certified copy thereof, verified as such by the affidavits of two of the signers, shall be filed with the register of deeds of the county of the principal place of business of the association, if incorporated for twenty-five thousand dollars (\$25,000) or less, and with the secretary of state if incorporated for more than twenty-five thousand dollars (\$25,000). If the articles of incorporation are filed with the secretary of state, a certified copy shall be filed and recorded in the office of the register of deeds of the county in which the principal place of business of the association is located. For filing the articles of incorporation with the secretary of state there shall be paid to the state treasurer a fee of ten dollars (\$10.00) and for amendments to such articles five dollars (\$5.00). ('23 c. 131 § 5)

7853. May commence business when 20% of capital stock is paid in—After the articles of incorporation and by-laws have been approved by the superintendent of banks and the articles of incorporation have been published in accordance with the provisions of this act, the association may commence business whenever twenty per cent (20%) of the capital stock has been subscribed and paid in, and the amount of capital stock shall at no time be diminished below twenty per cent (20%) of the amount of the authorized capital. ('23 c. 131 § 6)

7854. Meetings of stockholders—Meetings of the stockholders shall be held annually at the principal place of business of the association at such times as shall be designated by the by-laws. At such annual meeting reports covering the business of the association for the previous fiscal year and showing the con-

dition of the association at the close of the fiscal year shall be submitted to the stockholders by the officers, and directors shall be elected for the ensuing years. The secretary shall cause notice of such meeting to be published in a daily or weekly newspaper published in the principal place of business of such association and being qualified to publish legal notices and such notice shall appear in at least two consecutive issues of such newspaper in the case of a weekly paper, and in case of a daily paper once each week for two consecutive weeks, previous to such meeting. Or notice of such meeting may be given by mailing notice of such meeting to each and every stockholder at his or her last known postoffice address not less than fifteen (15) days, nor more than thirty (30) days previous to the date of such meeting.

Special meetings of the stockholders may be called by a majority vote of the directors or upon written petition of at least ten per cent (10%) of the stockholders, in which case it shall be the duty of the president to cause notice of such meeting to be made as above provided. Such notice shall state the time, place and purpose of such meeting and shall be issued within ten (10) days of the date of the presentation of such petition, and such meeting shall be held within thirty (30) days of the date of the presentation of such petition. Notice of regular or special meetings having been mailed to the stockholders of the association or published in a daily or weekly newspaper as above provided, the secretary shall execute a certificate stating the date and manner in which such notice was issued and an exact copy of such notice, and failure of any stockholder to receive such notice shall not invalidate any action taken by the stockholders at such regular or special meeting. ('23 c. 131 § 7)

7855. Quorum—The number of stockholders required to be present in person or represented by mail vote at any regular or special stockholders' meeting to constitute a quorum for the transaction of business shall be a majority of such stockholders when the total number does not exceed fifty (50), and at least ten per cent (10%) of the total number of stockholders in all other cases, which shall not be less than forty (40); but one hundred (100) stockholders present in person shall constitute a quorum in any association organized under this act. The fact of attendance of a sufficient number of stockholders to constitute a quorum shall be established by a registration of the stockholders of the company, which registration shall be verified and certified to by the president and secretary of the association. No action of any association organized under this act shall be valid or legal unless there is a quorum present as above provided at the meeting at which such action is taken. ('23 c. 131 § 8)

7856. Board of directors—Officers—Every association shall be managed by a board of not less than five (5) directors, who shall be members of the association and who shall be elected by the stockholders by ballot at such time and for such period as the by-laws shall prescribe. The officers of the association shall be a president, one or more vice presidents, a secretary and a treasurer, who shall be elected annually by the directors. Each officer shall be a director of the association. The office of secretary and treasurer shall be combined, and when so combined, the person filling the office shall be termed "secretary-treasurer." A quorum of the stockholders shall have the power at any regular or special stockholders' meeting, regularly called, to remove any director or officer for cause and fill the vacancy. The by-laws shall specify the manner

of nominating and electing the directors. ('23 c. 131 § 9)

7857. Reserve fund created—At the annual meeting of any association organized under the provisions of this act the stockholders may set aside all of the income of the first and second fiscal years of the association for the purpose of creating a reserve fund, and the directors shall transfer to said reserve fund at least ten per cent (10%) of the annual net income each year, until an amount has accumulated equal to thirty per cent (30%) of the paid-up capital stock, which reserve fund may be used in the business of the association the same as paid-up capital. The term "net income" as used in this act shall mean the income of the business after the operating charges and interest on capital stock have been deducted from the gross income. When recommended by the directors the stockholders at any annual meeting may increase such reserve fund out of the annual net income up to one hundred per cent (100%) of the paid-up capital stock. The interest paid on the capital stock shall not exceed the rate of eight per cent (8%) per annum. After the operating charges, interest on capital stock and the reserve fund as provided herein has been deducted from the gross income the remainder of the same shall be disbursed to the stockholders of the association, pro rata, based upon the amount of interest paid by the stockholders to the association on loans made under the provisions of this act. If the board of directors of any association shall authorize the payment of interest on the capital stock in excess of eight per cent (8%) per annum such act shall operate as a vacation of office of each director or officer voting for, authorizing, or in any manner sanctioning such payment and as a disqualification of any such officer from holding any office of the association for a period of three (3) years thereafter. ('23 c. 131 § 10)

7858. May issue debentures—Such corporation may issue and negotiate its debentures secured by the chattel mortgages and other securities taken by it under the provisions of this act in such manner and in accordance with such rules as are established by the superintendent of banks, who is hereby authorized and directed to make such rules as he may deem necessary for the regulation of the issuance of debentures by associations organized under this act. ('23 c. 131 § 11)

7859. Shall make annual reports to superintendent of banks—Every association organized under this act shall be required to file with the superintendent of banks each year a report of its business for the last fiscal year, which report shall be made on or before the first day of March at the close of the fiscal year, such report to be in such form as shall be determined by the superintendent of banks. ('23 c. 131 § 12)

7859-1. Creamery associations may acquire easements for sewers and sites for filtration plants by condemnation—Any creamery association, now or hereafter organized in the State of Minnesota, shall have the right, power and authority to condemn lands under the right of eminent domain for easements for sewers and sites for filtration plants to take care of all sewage and refuse made in the operation of its business and said power and authority shall be exercised under and pursuant to the terms and provisions of Chapter 41, General Statutes 1923, and acts amendatory thereof, and supplemental thereto. ('27, c. 179, § 1)

7859-2. Same—Supervision of sewers and filtration plants by boards of health—The establishment of any such sewers or any such filtration plants, or both, for

such purposes and their maintenance and operation, shall be under the supervision of the chairman of the Board of Health of the town, village or city in which such association has its operating plant. ('27, c. 179, § 2)

7859-3. Incorporations of co-operative creamery associations legalized—That in all cases where there has been heretofore an attempted incorporation of a co-operative creamery association under the laws of this state, and the articles of incorporation have been filed in the proper office, but have been lost or destroyed and there is no record of them, and said creamery association has purchased property in its corporate name and transacted the business of a creamery association from the time of the purchase of such property and is now assuming to act as such creamery association and using the property so purchased for a creamery, such attempted incorporation of such creamery association, under the name assumed, in each and every such case is hereby legalized and declared a valid and effectual incorporation of such creamery association, under the name assumed, from and after the time of the filing of such articles of incorporation, notwithstanding the omission of any matter or thing prescribed to be done or observed in such incorporation. And any and all conveyance of property, real or personal, in good faith and lawful form, made to or by such creamery association, under the corporate name so assumed, and any regulations, rules or by-laws by it adopted, are hereby legalized and declared as valid and effectual as if such creamery association had been in all things duly and legally incorporated. ('27, c. 72, § 1)

7859-4. Same—Procedure—Any such creamery association, shall, within one year after the passage of this act, at a meeting of the stockholders thereof, ten days' notice of the time and place of such meeting having been given by the secretary of such creamery association by posting copies of such notice in at least three public places in the town, city or village in which said creamery is situated, and by mailing a copy thereof to each stockholder at his last known address, adopt articles of incorporation containing the provisions now required by the laws governing the organization of co-operative associations, and the certificate of such formation shall be executed by the president and secretary of such creamery association and filed in the office of the Secretary of State and recorded in the office of the Register of Deeds of the proper county. ('27, c. 72, § 2)

7859-5. Same—Effect—Upon the filing and recording of such articles of incorporation, said association shall become a corporation for the period of time therein set forth. ('27, c. 72, § 3)

7859-6. Same—Pending actions not affected—Nothing in this act contained shall affect any action or proceeding now pending. ('27, c. 72, § 4)

7859-7. Renewal of corporate existence of co-operative creamery associations—Any co-operative creamery association whose period of duration has expired less than eight years before the passage of this act and which has continued to carry on its business without a renewal of its said period, may renew the period of its corporate existence from the date of expiration of said period of duration for an additional term not exceeding twenty years from date of such expiration, with the same force and effect as if such renewal had been effected before its said period of duration expired, by taking the proceedings provided by law for the renewal of the corporate existence of such corporation in cases where such renewal is made before the end of

its period of duration. Provided, however, that the proceeding to obtain such renewal shall be taken within six months after the passage of this act. And provided further, that this act shall not affect any pending litigations nor apply to any corporation whose charter has been declared forfeited by the final judgment of any court of competent jurisdiction in this state. ('25, c. 50)

7859-8. Same—That in any case where the original period of duration of corporate existence as specified in the articles of association of a co-operative creamery association organized and existing under the laws of this state expired less than two years prior to the passage and approval hereof, and the association has continued in good faith to carry on and transact business and has heretofore in good faith attempted to renew the period of its corporate existence for a period of not exceeding 20 years from and after the expiration of its said original period of duration and such renewal proceedings were in all respects regular and in accordance with law, save that the same were not taken and completed prior to the expiration of said period, the extension of the corporate existence of such association shall be and hereby is declared to be in all respects legal and valid and shall have the same force and effect as if renewed prior to the expiration of its term of existence. ('27, c. 174, § 1)

7859-9. Same—Relation back to date of expiration of original period—In any such case such proceedings shall relate back to the date of expiration of said original corporate period, and any and all corporate acts and contracts of such association done or entered into after the expiration of said original period shall be and each hereby is declared to be legal and valid. ('27, c. 174, § 2)

7859-10. Same—Associations excepted—This act shall not apply to any co-operative creamery association the charter of which has been declared forfeited by the final judgment of any court of competent jurisdiction in this state, nor to any action or proceeding now pending in any of the courts of this state. ('27, c. 174, § 3)

7859-11. Renewal of corporate existence of certain warehouse corporations—Any corporation having not more than \$1,500 of capital stock issued and organized for the purpose of operating a warehouse, buying, selling and storing grain and farm produce, whose period of duration has expired less than twelve years before the passage of this act, and which has continued to carry on its business without a renewal of the said period, may renew the period of its corporate existence from the date of expiration of said period of duration for an additional term not exceeding twenty years from the date of such renewal, with the same force and effect as if such renewal had been effected before its said period of duration expired, by duly calling a meeting of its stockholders for such purpose and upon a majority vote of the stock represented at such meeting. Provided, however, that the proceedings to obtain such renewal shall be taken within six months after the passage of this act, and provided further that this act shall not affect any pending litigation or apply to any corporation whose charter has been declared forfeited by the final judgment of any court of competent jurisdiction in this state. ('27, c. 116, § 1)

7859-12. Same—Conveyances, etc., legalized—Any and all conveyances heretofore made and any and all acts done by any such corporation or its proper officers subsequent to the expiration of its last period of duration shall, whenever such corporation shall renew its

corporate existence under the provisions of this act, become and same hereby are legalized and made of the same force and effect as though such conveyances or said acts had been made or done prior to such expiration of said period of duration; provided, however, that nothing herein contained shall be construed as affecting any vested rights or any action or proceeding now pending. ('27, c. 116, § 2)

Certain co-operative laws closely allied to some particular subject matter appear in such chapter respectively pertaining to same, and among these are:

'23 c. 423, under Agriculture and Rural Credits.

'23 c. 141, co-operative credit associations under Agriculture and Rural Credits.

'23 c. 264, co-operative marketing under Agriculture and Rural Credits.

'23 c. 284, accounting of co-operative associations under Agriculture and Rural Credits.

Besides the legalizing and validating sections and acts found under caption "Foreign Corporations," likewise reduced to notes are:

'19 c. 243, authorizing renewal of period of corporate existence, same expiring less than 8 years before April 15, 1919, of any co-operative creamery association.

'21 c. 220 is substantially as '19 c. 243, applying to cases prior to April 8, 1921.

'23 c. 96, is substantially as '19 c. 243, except being applicable to instances of less than 20 years prior to March 26, 1923.

'23 c. 3 legalizes and confirms certain co-operative associations and the articles and records thereof, where compliance with provisions thereof is more than 10 years prior to January 31, 1923.

'23 c. 221, authorizes renewal of corporations organized pursuant to '94 c. 34, title 3, whose corporate existence expired on or before March 16, 1902, proceedings therefor to be taken within 6 months from April 11, 1923; inapplicable to pending litigation or forfeiture of charter by final judgment.

AGRICULTURAL SOCIETIES

STATE AGRICULTURAL SOCIETY

Additional provisions relating to State Agricultural Society, see § 53-43, herein.

7860. Confirmation—Purposes—The state agricultural society as it now exists is hereby confirmed and established as a public corporation. The conveyance to the state of the land in Ramsey county known and used as "the state fair grounds" is hereby confirmed, and the same shall be held by the state forever for the following public purposes, and no other: For exhibiting thereon annually, under the management and control of said society, the agricultural, stock-breeding, horticultural, mining, mechanical, industrial, and other products and resources of the state, including proper exhibits of the arts and sciences, and all other public exhibitions pertinent to expositions of human art, industry, or skill. Neither the state nor said society shall ever charge or incumber said property. (3079) [6491]

Society a department of the state government and its managers public officials. Exempt from civil liability. Constitutionality of 1903 c. 126 (93-125, 100+732; 95-353, 104+534).

7861. Membership—Its membership shall be confined to citizens of this state and shall be composed as follows:

1. Three delegates to be chosen annually by each agricultural society or association in the state which shall maintain an active existence, hold annual fairs and be entitled to share in the state appropriation under the provisions of Section 7886. If any such society or association fails to choose delegates, then the president, secretary and treasurer thereof shall, by virtue of their offices, be the delegates from such society or association. Each delegate from such society or association shall be entitled to one-half vote at the regular or special meetings, where two fairs

now established and receiving state aid are in operation in one county.

2. One delegate from such county in the state in which no county or district agricultural society exists to be appointed by the county board of such county.

3. Individuals, who by reason of eminent services in agriculture, horticulture, or in the arts and sciences connected therewith, or of long and faithful service in the society, or of benefits conferred upon it, may by two-thirds vote at any annual meeting be elected as honorary members. The number of such honorary members shall not at any time exceed its present membership; provided, that not more than one honorary member shall be elected annually. Each honorary member shall be entitled to one vote.

4. Two delegates elected by, and the president, ex-officio, of the following societies and associations: The State Horticultural society, the State Dairyman's association, the State Beekeepers' association, the Minnesota Livestock Breeders' association, the Minnesota Crop Improvement association, the Minnesota Swine Breeders' association, the Minnesota Sheep Breeders' association, the Minnesota Horse Breeders' association, the Minnesota Veterinary association, the Minnesota Cattle Breeders' association, the State Poultry association, Minnesota Implement Dealers association, the Minnesota Florists association, the Minnesota Garden Flowers association, the Minnesota County Exhibitors' association, the Minnesota Federation of County Fairs, the State Forestry association, Minnesota State Nurserymen's association, the Minnesota State Grange association and the Minnesota Farm Bureau Federation. The following societies and associations shall be entitled to one vote each: Minneapolis Market Gardeners' association of Minnesota, the State Growers' association, Minnesota Shorthorn Breeders' association, Minnesota Guernsey Breeders' association, Minnesota Jersey Cattle club, Minnesota Holstein-Friesian Breeders' association, the Minnesota Hereford Breeders' association, Minnesota Aberdeen Angus Breeders' association, Minnesota Red Polled Breeders' association, Minnesota Ayreshire Breeders' association, Minnesota Brown Swiss Breeders' association, Minnesota Poland China Breeders' association, Minnesota Durco Jersey Breeders' association, Minnesota Chester White Breeders' association and Minnesota Berkshire Breeders' association, provided, that all such societies and associations shall be active and state-wide in their scope and operation, hold annual meetings and be incorporated under the laws of the state of Minnesota, before being entitled to select such delegates. The societies and associations named in this sub-division shall file with the Secretary of State, on or before December 20, of each year, a report showing that said society or association has held a regular annual meeting for such year, a summary of its financial transactions for the current year and an affidavit of the president and secretary that it has a paid up membership of at least twenty-five. On or before January 5 of each year, the secretary of state shall certify to the secretary of the state agricultural society the names of such societies or associations herein named as have complied with the provisions hereof.

5. The members of the governing board of the State Agricultural society shall by virtue of their offices as such, be members of said society and be entitled to one vote each.

6. On all questions arising for determination by the State Agricultural society, including the election of

members of the governing board, each delegate present shall be entitled to one vote, and no proxies shall be recognized by said society except when less than three delegates of any county or district agricultural society shall attend the annual meeting, those present may cast the full vote of said society. All delegates shall be accredited in writing and their credentials shall be signed by the president and secretary of the society or association represented. (R. L. '05, § 3080; amended '05, c. 307; '11, c. 381, § 1; '13, c. 194; '19, c. 116, § 1; '21, c. 290, § 1; '27, c. 144, § 1) [6492] 139+498.

7862. Management—The management and control of its affairs shall be vested in its president, two vice-presidents, and eight other managers, one from each congressional district not represented by a vice-president, to be known as its governing board, all of whom shall be citizens of this state, and any six of whom shall constitute a quorum. The annual meeting of such society shall be held at such place in St. Paul or Minneapolis or upon the state fair grounds as the governing board may select. It shall begin on the Wednesday following the second Tuesday in January, and shall continue until the following Friday, on which day a president shall be elected for the term of one year, one vice-president for a term of two years and eight managers as follows: At the annual meeting in 1918 and on each third year thereafter one manager from each of the First, Third and Sixth congressional districts; at the annual meeting in 1919 and on each third year thereafter one manager from each of the Seventh and Ninth congressional districts; at the annual meeting in 1920 and on each third year thereafter one manager from each of the Second, Eighth and Tenth congressional districts; provided, that at the first regular meeting of said board held after the passage and approval of this act, the governing board shall appoint one manager from each congressional district not represented on the board by a manager, the managers so appointed to serve until the next following annual election, at which annual meeting in January, 1916, a successor to said appointed manager from the Third congressional district shall be elected for a term of three years, and a successor to said appointed manager from the Eighth congressional district shall be elected for a term of two years, in addition to the election of successors to managers and officers whose elective terms expire at such meeting, all of which managers shall thereafter be elected for the term of three years; provided further, that at no time shall more than one member of the governing board, exclusive of president, hereinbefore provided for be a resident of any one congressional district. On the day preceding the last day of said annual meeting the duly accredited delegates to said meeting from each congressional district whose member of said board of managers is about to expire shall meet together at the place for holding said annual meeting and nominate and certify to said annual meeting the choice of such district for such manager, and at the time fixed by law for the election of the president of such society, and after such nominations have been so certified, presented and read to said annual meeting, the said annual meeting shall proceed to elect managers to fill all expiring terms. Vacancies shall be filled by the governing board. Any person appointed to fill a vacancy shall hold office until the next annual meeting of the society which shall elect a successor to serve out the unexpired term. (R. L. '05 § 3081, amended '11 c. 381 § 2; '17 c. 277 § 1; '17 c. 508 § 1)

7863. Compensation of officers—Secretary—Treasurer—Expenses—The annual compensation of the president of the governing board shall be one thousand dollars and that of the other members six hundred dollars each, which compensation shall be in full for all their services. On the third Tuesday of January of each year the board shall elect a secretary, who shall hold office for one year and until his successor is elected and qualified. The compensation of the secretary shall be fixed by the board. The board may also appoint a treasurer for the term of one year and fix his compensation, which shall not exceed five hundred dollars per year. The board may designate the secretary as the treasurer of the society. In addition the board may allow the actual traveling expenses of its members and of the secretary and treasurer or other employes while in the performance of their official duties, the claims for which shall in all cases be itemized in full and verified before allowance. But no expenditure for traveling expenses to other states shall be made by the governing board or by any officer, employe or agent thereof unless authority be first granted by a resolution of the governing board, or by its executive committee, stating the reasons and purposes of such trip. All claims amounting to more than one dollar shall be accompanied by a sub-voucher for each item. (R. L. § 3082, amended '11 c. 381 § 3) [6494]

7864. Duties of secretary—Report—Duties of public examiner—The secretary shall keep a complete record of the proceedings of the annual meetings of the state agricultural society and all meetings of the governing board, and of any committee of such board, keep all accounts of the society and perform such other duties as the governing board may direct. On or before December 15th of each year the secretary shall make a report to the governor for the fiscal year ending November 30 of each year, showing all the proceedings of the society during the current year, and its financial condition as appears from the books of the society. Such report shall contain a full detailed statement of all receipts and expenditures during such year. The books and accounts of said society for said fiscal year shall be examined and audited annually by the public examiner of the state and a full detailed report thereof made to the governor on or before the first Tuesday in January of the following year. A summary of such examination, duly certified by said public examiner, together with his recommendations, and the proceedings of the annual meeting of the society first held following the secretary's report, including such addresses made at said meeting as the governing board shall direct, shall be appended to said secretary's report and printed in like manner as the reports of state officers. Four thousand copies of said report shall be printed annually and distributed as follows: Three copies to each society or association entitled to membership in said society, one copy to each newspaper in the state and the remaining copies in such manner as the governing board shall direct. The unpaid claims for examination heretofore made by the board of audit shall be paid from the funds of the society upon allowance by the governing board. (R. L. § 3083, amended '11 c. 381 § 4) [6495]

7865. Monthly statements by secretary—Purchases and expenditures, etc.—The secretary of the state agricultural society shall prepare monthly statements, except as provided by section eight, showing all the purchases and expenditures for the preceding month, except from the contingent fund, which shall be signed by him and approved by the president of the governing

board. The secretary shall attach to such statement his affidavit that all articles were purchased by him, or under his direction, and to his best information and belief all articles purchased by the governing board were purchased at a fair cash market value and received by the society and that all services charged for were actually rendered; that neither he nor any person in his behalf, or the governing board to his best information and belief, had any pecuniary or other interest in any purchase made or services rendered, or received any pecuniary or other benefit therefrom, directly or indirectly, by commission, percentage, deduction or otherwise; and that the articles specified conformed in every respect to the goods ordered, in both quality and quantity. Such report shall also show the amount of money in the hands of the treasurer of the society and from what sources received; provided, that all claims against the society shall be made out in duplicate and duly verified, upon forms to be prescribed by the governing board. ('11 c. 381 § 8) [6496]

7866. Statement, how filed—Monthly payroll—Payments, how made—The monthly statement so made, approved and verified, together with one copy of each of the duplicate claims provided for by section six, and a statement of every other expense, together with the monthly payroll, shall be filed with the state auditor not later than the tenth of the succeeding month. Two certified copies of such statement shall also be made, one copy to be filed with the secretary and the other with the treasurer of the society. The monthly payroll of the society shall show the name of every officer and employe, when first employed, his monthly pay, time actually served, and amount to be paid. If the society has sufficient funds, said state auditor shall issue his warrant upon the state treasurer in favor of the treasurer of the society for the gross amount shown by said statement and payroll, and the latter shall pay to the several persons the amount of their respective claims as shown by said statement and payroll. On receipt of the statement, the state auditor shall deliver to the state treasurer a draft upon the treasurer of the state agricultural society for the moneys on hand as shown by such statement. Upon payment of such draft, the amount shall be credited to the account of the state agricultural society, to which shall also be credited all interest accruing thereon. ('11 c. 381 § 9) [6497]

7867. Contingent fund—State fair period—Transfer of funds—Statements and report—The governing board may create a contingent fund from which expenditures may be made for emergency claims requiring immediate payment and for the payment of freight, express and drayage, and for the purchase of commodities requiring a cash payment. Disbursements may be made from said contingent fund in such manner as the governing board shall direct. Such contingent fund shall not exceed one thousand dollars. To secure said contingent fund the governing board may, when necessary, make requisition upon the state auditor for a warrant upon the funds in the state treasury to the credit of the state agricultural society. Such warrant shall be issued in favor of the secretary or treasurer of the society, as its board shall direct, during August and September of each year, which is hereby designated as the "state fair period," all receipts may be temporarily retained by the treasurer of the society in a general fund and payment may be made from said general fund during such period for the necessary expenses of conducting the annual fairs, including tem-

porary employes, the payment of prizes, purses and premiums and such other emergency expenses as the governing board may direct. Any funds in the state treasury to the credit of the society at the beginning of the state fair period may be transferred to the treasury of the society for the purposes named in this section. Such transfer shall be made in the same manner as herein provided for securing the contingent fund, but no portion of such transferred funds shall be used in the payment of any contract entered into by the governing board for the erection or repair of buildings, it being the intent of this act that such expenses shall be paid in the manner provided by sections six [7886] and seven [7888]. A statement of every expenditure made during each month under the provisions of this section shall be submitted to the governing board under rules established by it and when approved by the board, a copy thereof, certified by the secretary and attested by the president, shall be filed with the state auditor at the time of filing the statement provided for by section seven [7888]; provided, that the statements, for expenditures from the contingent and general funds during the state fair period shall be included in one report and filed with the state auditor not later than October 15th. ('11 c. 381 § 10) [6498]

7868. State agricultural society fund to be credited with interest earnings on money—That the state treasurer and state auditor are hereby directed to annually credit to the state agricultural society interest earnings on money received by the state agricultural society from the operation of the State Fair, rentals and the sale of property and by said society deposited with the state treasurer. Such credits shall be computed on the monthly balances from time to time to the credit of the said society and at the average rate of interest received by the state from its depositories. Such credits shall be given on such deposits from December 1, 1918. ('19 c. 279 § 1)

7869. New buildings—New buildings, the estimated cost of which shall be fifteen thousand dollars or more, shall be erected under the direction and supervision of the state board of control, but the governing board shall procure and adopt all plans and specifications for such buildings, which plans and specifications shall be used by the board of control in inviting bids and in the letting of contracts; provided, that no contract shall be entered into by said board of control for the construction of any building until such contract and bids received shall have first been submitted to the governing board of the state agricultural society and their approval of the same obtained in writing. ('11 c. 381 § 11) [6499]

7870. Salaries, when payable—Acts repealed—All salaries provided under the provisions of this act shall take effect and be in force from and after the third Tuesday in January, 1912. This act shall not be construed as repealing any appropriation contained in section 3098, Revised Laws, 1905 [7886], or any other appropriations made to aid county agricultural societies, which shall remain in force and be expended under the provisions of this act. Section 3101, Revised Laws 1905, and all other acts and parts of acts inconsistent with this act, are hereby repealed. ('11 c. 381 § 12) [6500]

7871. Annual appropriations—All moneys paid into the state treasury under the provisions of this act are hereby annually appropriated for the uses and purposes of the state agricultural society. ('11 c. 381 § 13) [6501]

7872. Property vested in state—Moneys, how expended—The title to all money and other property of such society shall vest in the state, and there shall be no division of its assets among its members. All moneys received by said society shall be used in the holding of its annual fair and for the improvement of the fair grounds, the payment of expenses, premiums, and purses, and furnishing such attractions and amusements as the governing board shall deem necessary for the success of its fairs. (3084) [6502]

7873. Management of property—General offices—The custody, management, and control of said fair grounds and all structures thereon shall be vested in said society as a department of the state, and its general offices, containing its property and records, shall be maintained upon said fair grounds. (3085) [6503]

7874. Exhibitions — Standing appropriation—Said society shall hold upon said fair grounds an annual fair, and may invite the co-operation of any other states or countries therein. It shall provide for and pay premiums, and all moneys expended for premiums, exhibits, or other displays shall be for the purpose of encouraging agriculture, horticulture, stock breeding, manufactures, and the mining, mechanical, and industrial arts and sciences. The sum of four thousand dollars is annually appropriated out of the revenue fund, to aid said society in the payment of such premiums, the same to be paid out by the state treasurer upon the order of the president and treasurer of the society countersigned by its secretary. (3086) [6504]

7875. Rules and regulations—Said society may make all by-laws, ordinances, and rules, not inconsistent with law, which it may deem necessary or proper for the government of said fair grounds and all fairs to be held thereon, and for the protection, health, safety, and comfort of the public thereon, and provide penalties for their violation; the same to be in effect from the time of filing with the secretary of the society. (3087) [6505]

7876. To license privileges—Said society may license and regulate all shows, exhibitions, performances, and privileges on said grounds, and may revoke any such licenses, and prohibit, remove, and summarily stop all exhibitions, performances, or privileges which it may deem offensive to good morals or which are contrary to law. (3088) [6506]

7877. Unlicensed or improper exhibition—Every person who shall engage in any play, game, concert, theatrical or other performance, or exhibit any show, caravan, circus, or curiosity, for which pay or any admission fee is required or received, without license therefor from the governing board, and any person who shall exhibit or perform therein any indecent, obscene, or immoral play or other representation, shall be guilty of a misdemeanor. If any show or exhibition licensed shall prove to be indecent, obscene, or immoral, the governing board shall forthwith close the same, and the license fee paid for such privilege, and any and all other moneys which may have been paid in connection therewith, shall be forfeited to the society. (3089) [6507]

7878. May contract in its own name—Said society may contract in its own name, and through its duly appointed officers and agents, and the provisions of this subdivision, and all ordinances, by-laws, rules and regulations adopted by its governing board, shall be deemed a part of every such contract entered into with any exhibitor, privilege holder, lessee, licensee, or other person. (3090) [6508]

7879. Special peace officers—At or before the time

of holding any such fair, the president of said society may appoint, in writing signed by him, as many persons to act as special constables as he may judge necessary, for and during the time of holding the same and for a reasonable time prior and subsequent thereto. Such constables, before entering upon their duties, shall take and subscribe the usual oath of office, indorsed upon their appointment, and shall have and exercise upon the grounds of said society, and within one-half mile thereof, all the power and authority of constables at common law, and in addition thereto may, within such limits, without warrant arrest any person found violating any law of the state, or any rule, regulation, by-law, or ordinance of said society, and may summarily remove the persons and property of such offenders from the grounds, and take them before any court of competent jurisdiction to be dealt with according to law. The president, vice-presidents, and members of the board of managers shall also have all the powers by this section conferred upon such constables. Every such peace officer shall wear some appropriate badge of office while acting as such. (3091) [6509]

7880. Sale of liquors—No person shall sell, barter, give away or otherwise dispose of or introduce, have or keep for barter, gift or sale any spirituous, malt or fermented liquor or intoxicating liquors of any kind upon or within one-half mile of the state fair grounds or aid and abet in so doing and the presence and possession of any kind of such liquors in any quantity upon the person or upon the premises leased or occupied by any person within said limits, is declared a public nuisance, and shall be prima facie evidence of the purpose of such person to barter, give away or sell the same. Any person who shall violate any provision of this section shall be guilty of a misdemeanor. (3092) [6510]

7881. Lockup—Seizure of liquors—Said society is authorized to provide and maintain a watchhouse or lockup on said grounds for the confinement of offenders and the temporary detention of suspected persons. The governing board, by itself or its special constables, shall without warrant seize and destroy any spirituous, malt, fermented, or intoxicating liquors of any kind found upon said grounds. (3093) [6511]

7882. Holding justice court on fair grounds—The governing board of said society may designate a justice of the peace of Ramsey county, who shall hold his court within the limits of said fair grounds while any fair is being held, and for one week prior and subsequent thereto, and there try and determine in a summary manner all cases within his jurisdiction, and not be required to grant any change of venue. While acting as such court he shall receive such compensation, not exceeding five dollars per day, as may be fixed by said governing board. All fines, penalties, and costs collected for any offense committed on said grounds shall forthwith be paid to the treasurer of said society, and his receipt therefor filed by the court with the county auditor. Said governing board may appoint and provide for the compensation of a person to prosecute actions before said court, or to act as its legal adviser. (3094) [6512]

7883. Larceny of ticket—Any person who shall steal or unlawfully obtain any ticket, paper, or other writing entitling, or purporting to entitle, the holder to admission to the state fair grounds, or any part thereof, or who shall sell or dispose of any such ticket which upon its face appears to have been issued to another and not transferable, without informing the

purchaser of its character, shall be guilty of a misdemeanor. (3095) [6513]

7884. Misdemeanors—In addition to other misdemeanors specified in and made punishable by a statute, every person who shall trespass on, enter, or attempt to enter said fair grounds, by jumping, climbing, or passing through any inclosure, or in any manner except through the gates provided therefor, or who shall enter such gates or other reserved inclosure on said grounds without authority of the governing board or its authorized officers, or who shall obtain permission to enter said grounds by impersonating another, or by any misrepresentation or false pretense, or who shall be found lurking, lying in wait, or concealed in any building, yard or premises, upon said fair grounds, or loitering about the immediate vicinity thereof with intent to steal or commit other offenses or mischief, shall be guilty of a misdemeanor. (3096) [6514]

COUNTY AGRICULTURAL SOCIETIES.

For other provisions relating to county fairs, and aid to and relief of County Agricultural Societies by counties see §§ 737, 738, herein; and see ante, sections 738-1 to 738-14.

7885. County agricultural societies—Formation—General powers—An agricultural society may be incorporated by citizens of any county or two or more counties jointly, but only one such agricultural society shall be organized in any county, except in counties having an area of five thousand square miles or more, in which two such societies may be organized, and when so organized shall receive all benefits that other senior agricultural societies obtain both from the state and the county; such society may sue and be sued in its corporate name; may adopt by-laws, rules and regulations, alter and amend the same; may purchase and hold, lease and control any real or personal property deemed to promote the objects of the society, sell and convey the same. This act shall not be construed to preclude the continuance of any agricultural society now existing, nor the granting of aid thereto.

Such society shall have jurisdiction and control of the grounds upon which its fairs are held, and of the streets and grounds adjacent thereto during such fair, so far as may be necessary for such purpose. At or before the time of holding any fair, the president of any such society may appoint, in writing signed by him, as many persons to act as special constables as he may judge necessary, for and during the time of holding the same and for a reasonable time prior and subsequent thereto. Such constables, before entering upon their duties, shall take and subscribe the usual oath of office, indorsed upon their appointment, and shall have and exercise upon the grounds of such society, and within one-half mile thereof, all the power and authority of constable at common law, and in addition thereto may, within such limits without warrant arrest any person found violating any laws of the state, or any rule, regulation, or by-law of said society, and may summarily remove the persons and property of such offenders from the grounds and take them before any court of competent jurisdiction to be dealt with according to law. Every such peace officer shall wear an appropriate badge of office while acting as such.

Any person who shall wilfully violate any rule or regulation made by such societies during the days of a fair shall be guilty of a misdemeanor. (R. L. '05 §

3097, amended '09 c. 416; '11 c. 381 § 5; '21 c. 464 § 1; '23 c. 146 § 1; '23 c. 232 § 1)

Cited (139+498).

'17 c. 131, authorizes renewal of corporate existence of any county agricultural society, member of State Agricultural Society, where same lapsed less than 2 years prior to March 29, 1917, within 6 months thereafter, such extension to be for additional 30 years, same is not applicable when forfeiture of charter is involved.

7886. Aid to county agricultural societies—All sums hereafter appropriated to aid county and district agricultural societies and associations, shall be distributed to the following named agricultural societies, or association: Aitkin County Agricultural Society, Anoka County Agricultural Society, Becker County Agricultural Society and Fair Association, Beltrami County Agricultural Association, Benton County Agricultural Society, Bigstone County Agricultural Society, Blue Earth County Agricultural Society, Brown County Agricultural Society, Carlton County Agricultural and Industrial Association, Carver County Agricultural Society, Cass County Agricultural Society, Chippewa County Driving Park and Fair Association, Chicago County Agricultural Society, Clay County Agricultural Association, Clearwater County Agricultural Society, Cook County Agricultural Society, Cottonwood County Agricultural Society, Crow Wing County Agricultural Society, Dakota County Agricultural Society, Dodge County Agricultural Association, Douglas County Fair Association, Faribault County Agricultural Society, Fillmore County Agricultural Society, Freeborn County Agricultural Society, Goodhue County Agricultural Society and Mechanic Institute, Grant County Agricultural Association, Hennepin County Agricultural Society, Houston County Agricultural Society, Hubbard County Agricultural Association, Isanti County Agricultural Society, Itasca County Agricultural Society, Jackson County Fair Association, Kanabec County Agricultural Society, Kandiyohi County Agricultural Society, Kittson County Agricultural Society, Koochiching County Agricultural Association, Lac Qui Parle County Agricultural Society, Lake County Agricultural Society, LeSueur County Agricultural Society, Lincoln County Agricultural Society and Fair Association, Lyon County Agricultural Society, McLeod County Agricultural Association, Mahnomen County Agricultural Society, Marshall County Agricultural Association, Martin County Agricultural Society, Meeker County Agricultural Society, Mille Lacs County Agricultural Society, Morrison County Agricultural Society, Mower County Agricultural Society, Murray County Agricultural Society, Nicollet County Agricultural Society, Nobles County Fair Association, Norman County Agricultural Society, Olmsted County Agricultural Association, Ottertail County Agricultural Society and Fair Association, Pennington County Agricultural Society, Pine County Agricultural Society, Pipestone County Agricultural Society, Northwestern Minnesota Agricultural Society, Pope County Agricultural Society, Ramsey County Agricultural Society, Red Lake County Agricultural Society, Redwood County Agricultural Society, Renville County Agricultural Society, Rice County Agricultural Society, Rock County Agricultural Society, Roseau County Agricultural Society, St. Louis County Agricultural Society, Scott County Agricultural Society, Sherburne County Agricultural Society, Sibley County Agricultural Association, Stearns County Agricultural Society, Steele County Agricultural Society, Stevens County Agricultural Society, Swift County Agricultural Society, Todd County Agricultural Society, Traverse County Agri-

cultural Association, Wabasha County Agricultural Society, Wadena County Agricultural Society, Waseca County Agricultural Society, Watonwan County Agricultural Society, Wilkin County Agricultural Society and Fair Association, Winona County Agricultural Society and Industrial Fair Association, Wright County Agricultural Society, Yellow Medicine County Agricultural Society, Perham Agricultural Society, Farmers' Co-operative Agricultural Society of Waconia, Scott County Good Seed Association and Farmers' Agricultural Society, Mankato Fair and Blue Earth County Agricultural Association, Faribault Agricultural and Fair Association, Polk County Agricultural Fair Association, Traverse County Agricultural Fair Association, St. Vincent Union Industrial Association, Cass County Agricultural Association, Shell Prairie Agricultural Association, Cannon Valley Agricultural Association, Morrison County Agricultural Fair Association and Washington County Agricultural Society, Northern Minnesota District Fair Association, and Lake of the Woods County Fair Association, Baudette and St. Louis County Community Fair Association, when not receiving specific state appropriations, pro rata, to be paid out in premiums at the fairs of only such society or association as have an annual membership of twenty-five or more, maintain an active existence, hold annual fairs on enclosed grounds owned or leased by such societies and associations, to which a fixed charge of admission is made; provided, that they shall have paid out in premiums to exhibitors during the year as much as they received from the state, and provided further that no such county or district agricultural society shall receive in any year from the state for the purpose of reimbursing it for the amount of premiums paid at its fairs, a sum in excess of seventeen hundred (\$1,700) dollars. Such pro rata distribution shall be in accordance with the following method; the premiums paid out by the said societies or associations, after excluding therefrom the payments made for horse races, ball games and amusement features of any nature as hereinafter provided, shall be added together, but in case any society or association shall have paid out a sum in excess of \$1,700 in making such total amount the sum of \$1,700 shall be taken in place of the amount actually paid out. The total amount available for distribution shall be divided by such total amount of premiums paid out and the rate per cent for distribution thus arrived at, but if this shall exceed 100% the same shall be reduced to 100%. The amount of the premiums so paid out by each society shall then be multiplied by this rate, and the amount each society shall receive shall be in that manner, determined, but the sum of \$1,700 shall be so multiplied by the rate in case of any society which shall have actually paid out in a sum in excess of \$1,700. All payments authorized under the provisions of this act shall be made only upon the filing by the public examiner with the state auditor a certificate of examination, in which the public examiner shall certify that he has caused an examination to be made of the records and accounts of such agricultural society making application for state aid and that it has in every respect complied with the requirements of this act relating to state aid. Upon receipt of such certificate of examination by the public examiner it shall be the duty of the state auditor to draw his voucher in favor of such agricultural society for the amount to which it is entitled under the pro rata distribution of any appropriations made for the purpose of state aid to such societies.

It shall be the duty of the public examiner to prescribe uniform forms and methods of accounting to be used by agricultural societies and no such society shall be entitled to state aid under the provisions of this act unless it has complied with the orders and instructions of the public examiner with respect to the use of the accounting forms and methods so prescribed by the public examiner.

Any county or district agricultural society which may have held its second annual fair shall be entitled to share pro rata in such distribution. The state auditor shall certify to the secretary of the State Agricultural Society on or before January 5th of each year a list of all county or district agricultural societies that have complied with this act, and which are entitled to share in such appropriation. All payments hereunder shall be made on or before December 20th, on the year in which the fair is held, provided, however, that in determining the amount to be paid to any society or association under this section, the state auditor shall exclude all payments made by such society or associations as premiums or purses for, or in horse races, ball games and amusement features of any nature. (R. L. '05, § 3098; G. S. '13, § 6516; amended '11, c. 381, § 6; '13, c. 425, § 1; '15, c. 243, § 1; '19, c. 138, § 1; '21, c. 452, § 1; '23, c. 301, § 1; '25, c. 47)

139+498.

'19 c. 130, authorizes counties to reimburse agricultural societies or officers for cost and expense of making certain improvements on land owned by any county prior to March 23, 1919, and used for county agricultural fairs.

7887. Lands owned by counties may be leased to county agricultural societies—Any county board of any county may lease to agricultural societies established and existing in its county for such period and on such terms as it shall deem expedient any lands of the county including any portion of lands of the county used as a poor farm, to be used by such society for fair purposes. Said society may construct on such leased land, suitable buildings, race tracks and other improvements, provided that in case of the leasing by said county board of any county of lands, previously set aside as a poor farm such improvements shall be constructed according to a plan previously submitted to said county board and approved by them, and provided further that during all times when such leased land is not used for fair purposes, said lands shall be and remain under the supervision and control of said county board or such overseer as may be appointed by such board. (R. L. '05 § 3099, G. S. '13 § 6517, amended '15 c. 346 § 1)

7888. County agricultural societies' annual meetings, and reports—Every such society shall hold an annual meeting for the election of officers and the transaction of other business on or before the third Tuesday in November of each year, at which time its secretary shall make a report of its proceedings for the preceding year; such report shall contain a statement of all transactions at its fairs, the numbers of entries, the amount and source of all moneys received, and the amount paid out for premiums and other purposes, and show in detail its entire receipts and expenditures during the year.

The treasurer shall also make a comprehensive report of the funds received, paid out and on hand, and upon whose order paid. Every such society shall cause a certified copy of the report of the secretary to be filed with the register of deeds of the county, and the state auditor, on or before the first day of Decem-

ber in each and every year. (R. L. '05 § 3100, amended '11 c. 381 § 7; '19 c. 114 § 1) [6518]

7888-1. County agricultural societies to have right of eminent domain—Every county agricultural society may acquire, by right of eminent domain, such private real property, as may be necessary or convenient for the transaction of the public business for which it was formed. ('21, c. 296, § 1)

7888-2. County agricultural societies who are members of Minnesota Federation of County Fairs may insure against rain—Rain protection fund—That the several county agricultural societies or associations now or hereafter organized under authority of law, which now are or hereafter may become members of the Minnesota Federation of County Fairs, are each hereby authorized and empowered to enter into a mutual agreement, each with the other, whereby each of the parties thereto shall annually pay to the treasurer of said Minnesota Federation of County Fairs, for the period covered by said agreement, unless sooner terminated as herein provided, the sum of money therein specified, or which may be ascertained and determined by some rule or method therein agreed upon or adopted by the board of directors of said Federation, which money so paid shall constitute a special fund, to be known as the "Rain Protection Fund," and shall be used only as hereinafter provided, but no such agreement shall become effective until at least twenty-five county societies or associations have executed the same. ('25, c. 334, § 1)

7888-3. Same—Money kept in special fund—Determination of losses—The money so received by the treasurer of said Minnesota Federation of County Fairs shall be kept separate from the other funds and moneys of said federation, and shall be disbursed to the several county societies or associations, which are parties to said agreement, in payment of financial losses sustained by them on account of rain during the holding of their respective annual county fairs or exhibitions, the same to be distributed according to the terms and conditions of said agreement, or according to such rules and regulations as may be adopted from time to time by the board of directors of said Minnesota Federation of County Fairs, not inconsistent with the terms and conditions of said agreement.

The board of directors of said Minnesota Federation of County Fairs shall determine what county societies or associations suffered loss on account of rain during the holding of their respective annual county fairs or exhibitions, the amount of such losses, and the portion of such fund each society or association suffering loss is entitled to, and to that end such board of directors may require each society or association claiming a loss to furnish to it such evidence, information and proof in respect thereto as in the judgment of said board is necessary for a full and equitable allotment and distribution of said Rain Protection Fund. The board may adopt rules and regulations defining compensable losses, and the method of determining the same and the amount thereof. The determination by said board of the amount which any county agricultural society or association is entitled to on account of any loss alleged to have been sustained by it shall be conclusive upon such claimant and all parties to the agreement. In case said fund shall be insufficient to pay all losses in full for any particular year, it shall be prorated among the several societies or associations suffering loss during said year in proportion to the amount of their respective claims as allowed by the

board of directors, and if said fund shall be more than sufficient in any year to pay all claims so allowed in full, the surplus shall be retained in said Rain Protection Fund for the payment of future losses. ('25, c. 334, § 2)

7888-4. Same—Withdrawals—Any county society or association may withdraw from said agreement at any time, except during the holding of its annual fair or exhibition and the thirty days immediately preceding, but upon such withdrawal such society or association shall forfeit all right to any moneys theretofore paid into said Rain Protection Fund and all right to further participate therein. ('25, c. 334, § 3)

7888-5. Same—Bond of treasurer of Minnesota Federation of County Fairs—Upon such agreement being signed by twenty-five or more county societies or associations, the treasurer of said Minnesota Federation of County Fairs shall forthwith furnish a bond, with corporate surety, in such sum as the board of directors shall fix, payable to said Federation, for the use and benefits of each and all county societies or associations entitled to share in the distribution of said Rain Protection Fund, conditioned for the safe-keeping of said fund and the prompt payment thereof to the societies or associations entitled thereto, which bond shall be subject to the approval of said board of directors. ('25, c. 334, § 4)

7888-6. Same—Premium on bond of treasurer—The premium upon the bond required by the preceding section shall be payable from said Rain Protection Fund. The said board of directors are also authorized to audit and allow claims for expenses incurred in carrying out the provisions thereof, and direct the payment thereof from said Rain Protection Fund. Such expenses shall be deducted before the payment of loss claims. ('25, c. 334, § 5)

7888-7. Same—Not insurance—The exercise of the privileges and powers herein granted shall not be deemed "insurance," as defined by Chapter 19, General Statutes 1923, and shall not be subject to the provisions of said chapter. ('25, c. 334, § 6)

7889. Appropriations by certain municipalities—The common councils of villages and cities and the boards of supervisors of townships having fairs of county and district agricultural societies or associations, who are members of the Minnesota state agricultural society, held within their corporate limits or in close proximity thereto, are hereby authorized and empowered to appropriate for and pay to such agricultural society or association annually a sum not exceeding \$1,000.00. ('13 c. 546 § 1) [6519]

7890. Public examiner to examine books, etc.—All books and affairs of all county agricultural societies or any like societies, receiving aid from the appropriation for aid of county agricultural societies shall hereafter be subject to examination by the public examiner for the current year. ('13 c. 452 § 1) [6520]

7891. Certain payments to street fairs legalized—All payments of money heretofore made by or on behalf of this state to such street fairs as may have been recognized and treated by the state auditor as members of the state agricultural society are hereby ratified, legalized and approved. ('13 c. 28 § 1) [6521]

SOCIAL AND CHARITABLE CORPORATIONS

GENERAL PROVISIONS

7892. Enlarging powers of social and charitable corporations—Any three or more persons may form a corporation for any one or more of the following pur-

poses, viz.: Religious, social, moral, educational, scientific, medical, surgical, benevolent, charitable, fraternal or reformatory purposes, including care of the sick, aged and disabled and ministering to the needs of the poor; providing comfort, education and recreation for all classes; for establishing, maintaining and operating clinical, pathological, medical or surgical research laboratories, hospitals, institutions of learning and gymnasiums, and otherwise for improving the physical, mental and moral condition of mankind; for advancing, promoting and administering charitable and benevolent aims in its own behalf, or as the agent, trustee or representative of others; for aiding and assisting individuals, corporations, associations or institutions now, or hereafter, engaged in furthering any one or more of the purposes above named, and establishing, promoting, maintaining, endowing and aiding with its own means, or as the agent, trustee or representative of others, any such corporation, association or institution; for providing, erecting, owning, leasing, furnishing and managing any building, hall or apartments for the use, in whole or in part, of any society, societies, body or bodies, incorporated or unincorporated, organized for any one or more of said purposes; or for the purpose of improving or beautifying any public roads, streets, grounds, parks, water or water fronts, provided that any such improvements shall be carried out under the supervision of the public official, or officials, having charge or control of public property to be so improved. (R. L. '05 § 3102, amended '09 c. 483; '13 c. 285 § 1; '15 c. 185 § 1; '17 c. 274 § 1) [6522]

Previously amended by 1907 c. 94.

Does not authorize incorporation of association for profit or designed to bestow benefits for a consideration (23-92; 35-458, 29-155; 37-13, 32-787; 85-498, 89-872). Unauthorized incorporation held to create corporation de facto (35-458, 29-155). Cited (42-204, 44-57; 72-498, 75-692; 88-524, 93-672; 88-535, 93-669; 93-72, 100-666). See (122-10, 141-837; 151-407, 186-800). 166-323, 207-632.

7893. Certificate—Contents—Filing—Annual meetings of religious corporations—They shall adopt and sign a certificate containing:

1. Its name, its general purpose and plan of operation, and its location.

2. The terms of admission to membership, the amount of monthly, quarterly, or yearly contributions required of its members.

3. If there be capital stock, the number of shares, and the amount of each share.

4. The officers of the corporation or society, with time and place of electing or appointing the same, the number of trustees, directors, or managers, if any, who are to conduct the transactions of the society during the first year; provided, that societies for the promotion of temperance or social or moral reform may hold their annual meetings for the election of officers and the transaction of other business at such time and place in the state as a majority of the members thereof may by vote determine; and any such existing society may hold its annual meetings at any time or place so determined.

Said certificate shall be acknowledged and filed with the secretary of state and recorded with the register of deeds in the county where the corporation is located. Any such corporation may amend its certificate as provided in the case of other corporations, but the amendment need not be published.

Provided, corporations organized for the promotion of the tenets of any religion or for the propagation of the gospel may hold their annual meetings at such

time and place within or without the state as a majority of the trustees, directors or managers thereof may by vote determine. (R. L. '05, § 2103; G. S. '13, § 6523; amended '21, c. 519, § 1; '25, c. 241)

Amendment (72-498, 75+692).
Subd. 2. Termination of membership (151-409, 186+801).
166-323, 207+632.

7894. Powers—Collection of assessments—Upon filing for record its certificate of incorporation, it shall have the ordinary powers of corporations, and may establish by-laws and regulations for the management of its affairs, in accordance with law and consistent with an honest purpose. It may in its corporate name, and for the use and benefit of the corporation, sue and recover judgment, for an amount not exceeding twenty dollars upon any one share in any one year of subscribed stock in said corporation, after ten days' notice to each stockholder of an assessment upon the shares. (3104) [6524]

Assessment on members. 166-323, 207+632.

7895. Election by another corporation—Any benevolent, charitable, missionary, hospital, or religious corporation, whenever its certificate shall so provide, may authorize the election of a specified number of its directors, trustees, or managers by another corporation. (3105) [6525]

7896. No dividend until dissolution—No distribution of property among members or shareholders of any such corporation shall be made until the dissolution of the corporation, except dividends upon its capital stock, if any, out of the net annual receipts after payment of all outstanding indebtedness. (3106) [6526]
85-498, 507, 89+872; 151-407, 186+800.

7897. Right to receive, invest and dispose of bequests, etc.—Every such corporation, in addition to its other powers, may receive or acquire by purchase, gift, grant or devise, and may hold, use, invest, expend, convey or dispose of any real or personal property whatever for any of the purposes for which the corporation may be created, and may lease, mortgage or use the same in any manner deemed most conducive to its interests and prosperity and to the accomplishment of any such purposes; but it shall not divert any gift, grant, devise or bequest from the specific purpose or purposes designated by the donor without his or her consent; but if so authorized by a donor, the corporation may expend, use or dispose of any property transferred to it, or the income thereof, in accordance with the judgment and discretion of its trustee, directors or officers; but no street, road or alley shall be established, opened or extended through or upon any lands not exceeding ten acres in area upon which a hospital building, incorporated as such, is situated, except with the consent of the managing board of such hospital. The provisions of this section shall be applicable to any existing corporation of the character authorized to be created by section 6522 of the General Statutes of 1913 [7892] as well as to any corporation hereafter organized in pursuance thereof. (R. L. '05 § 3107, G. S. '13 § 6527, amended '17 c. 274 § 2) Diversion of gift (85-302, 88+977).

7898. Educational institutions—Power as to property—Any educational institution created or existing under or by virtue of any law or laws of the state of Minnesota or territory of Minnesota, is hereby authorized and empowered to take, hold, receive and enjoy all property and money that has heretofore been or may hereafter be given, bequeathed, devised, conveyed or transferred to it, and to hold, use and enjoy

the profits, rents and income therefrom, notwithstanding any limitation in the laws or charters by or under which said educational institutions were incorporated or any amendments thereto. ('05 c. 75 § 1) [6528]

Exercise of powers in excess of those granted is basis for forfeiture of charter (148-24, 180+777).

7899. Colleges and seminaries — Diplomas —The trustees of any incorporated college or seminary, in addition to their other powers, may prescribe its course of study and discipline, grant such literary honors and degrees as are usually granted by similar institutions, and give suitable diplomas in evidence thereof. They may make all rules, ordinances, and by-laws necessary and proper to carry into effect its powers. Every such college shall be subject to visitation and examination by the superintendent of public instruction. They may require the treasurer and other officers and agents to give bonds. They shall annually, on or before January 1, report to the superintendent of public instruction the name of each trustee, officer, and student, the amount of stock subscribed, donated, and bequeathed, and the amount actually paid in. (3108) [6529]

85-498, 511, 89+872.

7900. Existing institutions—Any existing institution of learning, whether incorporated or not, on complying with the foregoing requirements, may by a majority vote become a corporation, with all its powers and privileges, and assume a corporate name. It may by a like vote transfer to such corporation, when so formed, all its property, real, personal, or mixed. Such corporation in its corporate name may sue for and collect all debts, demands, subscriptions, devises, and bequests to said institutions. But said corporation so taking such property of the original corporation or company shall take the same subject to all liens, trusts, and limitations to which it was subject before transfer, and shall be liable to pay all debts of such previous corporation to the extent of the value of the property so taken. (3109) [6530]

CORPORATIONS TO ADMINISTER CHARITIES

7901. Formation—Requisites—A corporation may be formed under the provisions of this subdivision for the purpose of administering and furnishing relief and charity for the worthy poor who may reside in a designated locality, and shall comply with the provisions of this section and § 7902, under the name specified in its certificate of incorporation. Such certificate shall declare:

1. Its name and principal place of business.
2. That it is organized to administer and furnish relief and charity for the worthy poor who may reside in a designated locality, and without discrimination as to age, sex, color, or religious inclination of the beneficiaries.
3. The names and places of residence of the incorporators, and how and when their successors may be appointed or elected.
4. The names of the first board of directors or managing officers, and in what officers or persons the government of the corporation and the management of its affairs shall be vested, and how and when they shall be elected or appointed, and any other provisions not inconsistent with law which may be desired. (3110) [6534]

7902. Powers of corporation—Visitorial right—Consolidation—The persons so executing said certificate

and their successors shall thereupon become a corporation by the name specified therein, with all the powers of a common law corporation. It may sue and be sued by its corporate name, have perpetual succession, adopt a corporate seal, and change the same at pleasure. It may in its corporate name acquire and receive, by purchase, gift, grant, devise, and bequest, any property, real, personal or mixed, and the same hold, sell, convey, assign, loan, lease or otherwise use for the purposes named in its certificate of incorporation, and for such time and in such manner as may be directed by any grantor or testator who may make a gift, devise, or bequest to such corporation, to be administered and used to furnish relief and charity for the worthy poor who may reside from time to time in a locality designated by such donor or testator; and it shall have no power to divert any gift, grant or bequest from the specific uses and purposes designated by the donor or testator. Such corporation shall have no capital stock, and any court of equity, on its own motion or on application, may have and exercise visitatorial powers over its officers and affairs. Provided, that any two or more corporations now or hereafter organized under the provisions of § 7901, or for the general purposes and objects therein specified, shall have power to consolidate and reorganize as a single corporation. A certificate stating the terms of consolidation shall be approved by each corporation by a majority vote of its board of managers or directors; and before such consolidation shall be effective, a copy of said certificate and of the record of such approval or consent, duly certified by the president and secretary of each corporation involved, and under its corporate seal, shall be filed for record in the office of the secretary of state. Upon the filing for record of said certificate, such corporations shall become merged in the new corporation, which shall thereafter be known by the name agreed upon, and said new corporation shall thereupon succeed to all of the rights, powers, franchises, contracts, privileges and immunities, and be subject to the same duties, liabilities and obligations in all respects as were granted to or imposed upon the original corporations. The name agreed upon for the new corporation may be the same as that of any one of the corporations entering upon said consolidation. (R. L. § 3111, amended '09 c. 222 § 1) [6535]

93-210, 227, 100+1104.

CHAMBERS OF COMMERCE, ETC.

7903. Corporations may be formed for certain purposes—A corporation may be formed in any county, city, village, or town for the purpose of advancing the commercial, mercantile, manufacturing, social, economic, civic, musical, athletic, or agricultural interests of such municipality; for inculcating just and equitable principles of trade; for establishing, maintaining, and enforcing uniformity in its commercial usages; for acquiring, possessing and disseminating useful business information; for adjusting the controversies and misunderstandings which may arise between individuals engaged in trade and business and for promoting the general prosperity of such municipality. (R. L. '05 § 3112, G. S. '13 § 6536, amended '23 c. 239 § 1) 107-506, 121+395; 152-272, 188+729.

7904. Chambers of commerce and boards of trade—In addition to its ordinary powers, every chamber of commerce or board of trade whose certificate shall state the purpose of its incorporation to be to acquire and disseminate useful business information; to inculcate

equitable principles of trade; to establish, maintain, and enforce uniformity in the commercial usages, business transactions, and trade relations of the municipality in which it is located, or of citizens thereof—shall also have power, by and through its committees, boards, and agents, in such manner, not inconsistent with law, as its by-laws or regulations may provide, to arbitrate, adjust, and determine differences between itself and its members, or between any such members, or between any such members and other persons assenting in writing thereto, including the taking of testimony and the rendition of awards as the basis of judicial proceedings, and the enforcement of any such awards, regulations, or by-laws, either by fine or by forfeiture of personal or proprietary rights of members. (3113) [6537]

By-law requiring arbitration constitutional (86-443, 91+8).

130-288, 153+617.

Expulsion from membership (142-194, 171+806; 152-272, 188+729).

7905. Chamber of commerce, etc., declared public markets—Every Chamber of Commerce, Board of Trade or Exchange, maintaining or operating a regular place of business or trading room for members only, in which the members buy, sell or exchange grain, livestock or other farm products for themselves or for others, is hereby declared to be a Public Market subject to the provisions of this Act. ('21 c. 99 § 1)

7906. Memberships—Every such market, whether heretofore or hereafter organized, shall be open to membership, with equal rights and privileges with all other members, to any person, firm, company, corporation or association desiring to deal in or trade in the commodity or commodities usually dealt in on such market, who shall make application for membership, and whose methods of business operation or plan of organization shall not conflict with or contravene any reasonable rule, regulation or by-law of such market. All members shall be required to comply with all reasonable rules, regulations and by-laws of such organization, which may include the payment of a membership fee and reasonable assessments equally applicable to all members. The words "company," "corporation" or "association" herein designated shall include cooperative corporations or associations organized or authorized to do business under the laws of the state of Minnesota. Any rule, regulation or by-law of such market which shall be designated or construed as controlling, limiting or modifying the articles of incorporation, constitution or by-laws of any association, company or corporation in the distribution of its profits to its stockholders and members shall be deemed to be unreasonable. ('21 c. 99 § 2)

7907. Violations—Penalties—Every such Chamber of Commerce, Board of Trade or Exchange which shall adopt any rule, regulation, by-law or order of whatever kind or form, or which makes any order in violation of the provisions of this act, or which shall refuse or unreasonably delay the admission of any such applicant to full and equal membership in any such organization, or which shall refuse to trade or deal with any member or permit any member to refuse so to deal with any other member on an equal basis with all other members, or which shall adopt, prescribe, construe or apply any rule, order, or regulation which shall have the effect of, or tends to, avoid or violate any of the provisions of this Act is hereby declared to be a monopoly in restraint of trade and guilty of a felony and may be prosecuted as provided by law, and further trading in said Chamber of Commerce, Board of Trade or Exchange, either by the organization itself or any

member thereof shall be unlawful. ('21 c. 99 § 3)

7908. Attorney general to prosecute—Whenever any such Chamber of Commerce, Board of Trade or Exchange or any officer or agent thereof shall violate any of the provisions of this Act, the Attorney-General shall prosecute such organization, officer or agent thereof for such violation and shall, by quo warranto, institute proceedings in the name of the State of Minnesota, to dissolve such organization and prevent its further operation, and the said Attorney-General shall also, by injunction, restrain the organization and all members thereof from thereafter continuing in such violations and from any further trading in such market, either directly or indirectly. ('21 c. 99 § 4)

CAMP MEETING ASSOCIATIONS

7909. Formation—Capital stock—Camp or grove meetings, Sunday school assemblies, or any societies for religious instruction or worship, and for mutual improvement in moral, literary, or social culture, may be incorporated under this chapter. The amount of capital stock shall not be less than five thousand dollars, divided into shares of not less than ten dollars nor more than fifty dollars, and paid in as provided in its by-laws. (3114) [6538]

7910. Exempt from taxation — Laying streets through—All property necessarily used by any such corporation, and not leased or used for profit, shall be exempt from taxation. No roads or streets shall be laid through any such property without the consent of the governing board of such corporation. (3115) [6539]

7911. Peace officers may be appointed—The governing board of any such corporation may appoint peace officers for the purpose of keeping order on its grounds, to be paid by such corporation. Such officers while on duty shall have the same power and authority as constables. (3116) [6540]

SOCIETIES FOR SECURING HOMES FOR CHILDREN

7912. Formation—Twenty or more citizens of this state may form a corporation for the purpose of securing homes in private families, by adoption or otherwise, for orphans, or homeless, abandoned, neglected, or grossly illtreated children. Such incorporators shall file with the secretary of state their certificate of incorporation, accompanied by a certificate of the governor and three or more justices of the supreme court, that said corporation is trustworthy and entitled to confidence. A like certificate of three or more justices of the supreme court shall be filed every ten years thereafter. Such corporation shall have a main office, adopt and publish rules for the transaction of its business, and its financial records shall be open to public inspection. (3117) [6541]

7913. Powers of societies in connection with custody of children—Every such society may receive and become the legal guardian of any resident child under ten years of age, who is grossly illtreated, or who has been abandoned, or is without a home, or surrounded by bad or immoral influences. It may contract in writing with any person who, after ninety days' trial, shall take, without adopting, any such child, for its proper care until sixteen years of age if a girl, and eighteen if a boy. Such contract shall also specify the amount to be paid to such child at the expiration thereof, but shall contain no provision for its political or sectarian training or education. Such con-

tract shall not interfere with the adoption of said child according to law. (R. L. '05 § 3118, G. S. '13 § 6542, amended '17 c. 221 § 1)

7914. Compensation—Said society shall in no case charge or receive from any person adopting a child any compensation except the expense of taking it to the home provided, and the person taking the child shall receive no compensation for the care, clothing, or medical attendance thereof in case it is returned to the society. (3119) [6543]

7915. Supervision of children in homes—Said society shall keep careful supervision over all children placed by it, and, except in case of legal adoption, require from persons taking them a full report of their condition and welfare at least once a year. Its agents shall have the right to visit such children, and personally investigate their condition, as often as may be deemed desirable. If such society becomes satisfied, upon due investigation, that the influence of any home is harmful, or the treatment of the child is unduly severe or inconsiderate, its superintendent may require his return to its main office, at the expense of the family having it. (3120) [6544]

7916. Report to state board of control—The secretary of every such society shall, from time to time, report to the state board of control such facts in reference to the children in its custody as such board may require, on blanks prescribed by it. The board of control may at all times investigate the homes where such children are placed, and if any child is found to have been placed in an improper home it may order its transfer to a proper one, and if the change is not made within thirty days it may take charge of such child and make suitable provision for it. (3121) [6545]

7917. Application to probate judge—His duties—Whenever two members of the governing board of any city, county, town, or village shall make petition, in writing, to the probate judge of any county, that a child under the age of ten years, residing in such county, is, in their opinion, dependent upon the public for support; has been abandoned or neglected or is a vagrant; or whose life, health, or morals is imperiled by cruel treatment or by the habitual intemperance or other misconduct of its parents or guardian—such judge shall issue a citation fixing a time and place of hearing upon such complaint, which citation shall be served upon such parents or guardian not less than five days before the day of hearing, if they or either of them can be found in the state, of which the sheriff's return shall be sufficient proof, provided that if such parent or guardian shall join in the petition no notice shall be necessary. In either case said judge shall cause an investigation to be made as to the truth of the allegations of the petition and the condition of such child, and upon any such hearing he may compel the attendance of witnesses, and shall enter his findings on the records of the court. The county attorney shall attend all such hearings, and any other person may appear thereat in behalf of such child. In case of refusal by the parents or guardian to surrender a child to such society on order of such judge, he may direct the sheriff to take possession of the child and deliver it to such society or its agent. (3122) [6546]

7918. Order of probate judge—If the judge finds the allegations of the petition to be true, upon the written request of the superintendent of such society, he may direct that such child be turned over to its care and custody for the purpose of adoption or to be placed by contract, and shall deliver to such society a copy of its order, which, in addition to other findings, shall state, as far as can be ascertained, the name and age

of the child, and the name, nativity, residence, and occupation of the parents or either of them. Upon entering such order, the parents of such child shall be released from all parental duties and responsibilities in respect thereto, and thereafter shall have no right to its custody, services, or earnings, except by direction of such society or order of court. (3123) [6547]

7919. Child, how restored to parents—Whenever one or both of the parents of any ward of such society so committed to its care have become able to support and educate such child, by resolution of the governing body of the society and by order of said court it shall be returned to the parent making application therefor. But all orders of the probate judge relative to such child shall be appealable to the district court by the petitioners, parents, or guardians. (3124) [6548]

7920. Provisions for incorporating homes for dependent children, and for securing homes for same—A corporation may be formed under the provisions of this act, by not less than three persons, for the purpose of establishing and maintaining homes for dependent children, for the receiving of such children into said homes, the care and supervision of said children and the conduct of said homes; and for the purpose of securing homes in private families, by the adoption or otherwise for orphans, homeless, abandoned, neglected or grossly ill-treated children. Such incorporators shall file with the Secretary of State their certificate of incorporation which shall declare and state:

1. Its name and principal place of business.

2. That it is organized to establish and maintain a home for dependent children and for the custody and supervision of said dependent children in said home and to find and secure homes in private families by adoption or otherwise for orphans, homeless, abandoned, neglected or grossly ill-treated children.

3. The names and places of residence of the incorporators, and how and when their successors may be appointed and elected.

4. The names of the first board of directors or managing officers and in what officers or persons the government of the corporation and management of its affairs shall be vested and how and when they shall be elected or appointed; and any other provisions not inconsistent with law that may be desired. ('13 c. 314 § 1, amended '15 c. 61 § 1) [6549]

7921. Powers granted to certain corporations in the custody, care, and supervision of the welfare of children—The persons so executing said certificate and their successors shall thereupon become a corporation by the name specified therein with all the powers of a common law corporation. It may sue and be sued by its corporate name, have perpetual succession, adopt a corporate seal, and change the same at pleasure. It may in its corporate name acquire and receive, by purchase, gift, grant, devise, and bequest, any property, real, personal or mixed and the same hold, sell, convey, assign, loan, lease, or otherwise use for the purposes named in its certificate of incorporation, and for such time and in such manner as may be directed by any grantor or testator who may make a gift, devise or bequest to such corporation, to be administered and used as provided in this act; and it shall have no power to divert any gift, grant or bequest from the specific uses and purposes designated by the donor or testator. Such corporation shall have no capital stock; and any court of equity, on its own motion or upon application, may have and exercise visitatorial powers over its officers and affairs. Every

such corporation so formed may receive and become the legal guardian of any resident child under twelve years of age, who is grossly ill-treated, or who has been abandoned, or is without a home or surrounded by bad or immoral influences. It may contract in writing with any person who, after sixty days' trial, shall take, without adopting, any such child, for its proper care until sixteen years of age, if a girl, and eighteen years of age if a boy; such contract shall specify what amount, if any, is to be paid to such child at the expiration of such period, but shall contain no provision for its political or sectarian training, or education. Such corporation shall keep careful supervision of all children placed by it, and except in case of legal adoption, shall require from persons taking them a full report of their condition and welfare at least once a year; and its agents shall have the right to visit such children and personally investigate their conditions as often as may be deemed desirable. If such corporation become satisfied, upon due investigation, that the influence of any home is harmful, or the treatment of the child is unduly severe or inconsiderate, it may require, through its board of directors or managing officer, the return of such child to the main office of such corporation, at the expense of the family having it. ('13 c. 314 § 2, amended '15 c. 61 § 2; '17 c. 232 § 1) [6550]

7922. Property to be exempt from taxation—Said corporation shall have supervision over all children received by it as provided in this act and shall have a right to be appointed by the proper court and to act as guardian of any of said children. Said corporation and all its property, personal, real and mixed, shall be exempt from taxation. Said corporation shall have all the powers and rights now conferred upon the governing body of cities, counties, towns and villages by Section 3122, Revised Laws 1905, and may exercise the powers and rights as provided in said Section 3122; and may have children committed to said home by the Probate Court and may receive the same in the same manner as provided in Sections 3122, 3123 and 3124, Revised Laws, 1905. ('13 c. 314 § 3, amended '15 c. 61 § 3) [6551]

Explanatory note—For R. L. '05, §§ 3122 to 3124, see §§ 7917 to 7919, herein.

CORPORATIONS FOR MAINTAINING HOMES FOR AGED MEN AND WOMEN

7923. Incorporation—Any number of persons not less than five who shall associate themselves together by articles of agreement in writing according to the provisions of this act for the purpose of obtaining, establishing, building, maintaining, endowing and carrying on in the state of Minnesota, a home for aged men and women, and who shall comply with the provisions of this act, shall with their associates and successors constitute a body corporate under the name by them assumed in such agreement. ('11 c. 65 § 1) [6552]

7924. Articles of incorporation—Said articles shall declare:

First: The name of the corporation, and the principal place of transacting its business.

Second: That it is organized for the purpose of obtaining, establishing, building, maintaining, endowing and carrying on in the principal place where its business is to be transacted a home for aged men and women.

Third: The name, and the places of residence of the persons forming such association, and corporation, and

how, and when their successors may be appointed or elected.

Fourth: The name of the first board of directors or managing officers of such corporation, and in what officers or persons the government of such corporation, and the management of its affairs shall be vested, and how and when such officers may be elected, or appointed, and it may contain such other provisions not inconsistent with this act as such incorporators may desire.

Said articles shall be recorded in the office of the register of deeds of the county where such corporation has its principal place of business, and also in the office of the secretary of state, and published once each week for two successive weeks in some newspaper printed and published in the county in which said principal place of business is located, and the affidavit of the printer of such newspaper showing such publication shall be filed with the secretary of state. ('11 c. 65 § 2) [6553]

7925. **Powers**—When such articles are so made, recorded and published, and said articles and affidavit are so filed, the persons so signing said articles, and their successors from time to time shall constitute and be a corporation by the name in such articles assumed or adopted, and it shall also have all the powers of corporations at common law, and it may sue, and be sued by its corporate name, have perpetual succession, make all needed rules, regulations and conditions for admission of inmates into such home, and for the carrying on and management of such homes and of its affairs, adopt a common seal which it may change at pleasure, and shall have power in its corporate name to acquire and receive by purchase, conveyance, gift, grant, devise and bequest any property, real, personal or mixed, the same to hold, sell, convey, assign, loan, lease or otherwise use for the purpose named in its articles, and for such time, and in such manner as may be directed by any grantor or testator who may make a gift, devise or bequest to such corporation, or for its use, to be administered and used for the purpose of obtaining, establishing, building, maintaining, endowing and carrying on such home, but such corporation shall have no power to divert any gift, grant or bequest from the specific uses and purposes designated by any donor or testator. Provided, that nothing herein contained shall have the effect of legalizing any gift, devise or bequest which would otherwise be invalid under the laws of this state, in any matter now pending in any court of this state or, which may be instituted within sixty days after the passage of this act. ('11 c. 65 § 3) [6554]

7926. **No capital stock—Visitorial powers**—No corporation organized under this act shall have any capital stock, and any court of equity in this state on its own motion, or on application so to do, may have and exercise visitorial powers over the officers and affairs of any corporation organized under this act. ('11 c. 65 § 4) [6555]

SOCIETIES FOR PREVENTION OF CRUELTY

7927. **Purposes—Powers**—The "Minnesota society for the prevention of cruelty" is hereby confirmed and continued, with all existing powers, for the purpose of inculcating humane principles, the enforcement of law, and the prevention of cruelty, especially to children and animals. It may appoint representatives in any county where no active county society exists, for the purpose of receiving and accounting for funds from any source, and may also appoint agents at large to prosecute the work of said society throughout the

state. Said society and all county societies may appoint agents for the purpose of prosecuting persons guilty of cruelty to children or animals. Every such agent whose appointment has been approved and made a matter of record by the probate judge of the county from which he was appointed may arrest any person in his county found violating any law for the protection of children or animals, take him before any court or magistrate having jurisdiction, and make complaint against him. Branches of said society, consisting of not less than ten members, may be organized in any part of the state to prosecute the work of the society in their several localities under rules established by it. It may elect officers and make such rules and by-laws as are necessary. (3125) [6556]

7928. **Society constituted state bureau**—That the Minnesota society for the prevention of cruelty is constituted a state bureau of child and animal protection for the purposes hereinafter set forth; provided, that the said society for the prevention of cruelty shall accept and carry out the provisions of this act. ('05 c. 274 § 1) [6557]

7929. **Ex officio members**—The governor, the superintendent of public instruction and the attorney general shall be ex officio members of the board of directors of said state bureau. ('05 c. 274 § 2) [6558]

7930. **Duties**—It shall be the duty of the said bureau to secure the enforcement of the laws for the prevention of wrongs to children and dumb animals; to assist in the organization of district and county societies and the appointment of local and state agents, and give them representation in the state bureau; to aid such societies and agents in the enforcement of the laws for the prevention of wrongs to children and dumb animals, which may now or hereafter exist, and to promote the growth of education and sentiment favorable to the protection of children and dumb animals. ('05 c. 274 § 3) [6559]

7931. **Annual meeting**—Said bureau shall hold its annual meetings on the second Monday in November in each year at the capitol of the state, for the transaction of its business and the election of its officers, at which meeting all questions relating to child and animal protection in the state may be considered. ('05 c. 274 § 4) [6560]

7932. **Annual report**—The said bureau shall make an annual report before the first day of January of each year to the secretary of state, embracing the proceedings of the bureau for the preceding year, and statistics showing the work of the bureau. ('05 c. 274 § 5) [6561]

7933. **Acceptance of act**—If the said humane society shall accept the provisions of this act, they shall certify their acceptance of the same to the secretary of state and state auditor. ('05 c. 274 § 6) [6562]

7934. **County societies**—County societies for the prevention of cruelty to children and animals may be formed in any county by not less than seven incorporators, and the members, at a meeting called for that purpose, may elect not less than three of their number directors, who shall continue in office until their successors are qualified. (3126) [6563]

7935. **May acquire and hold property—Municipal appropriation**—Every such society may acquire by purchase, gift, grant or devise, and hold, use, or convey, real estate and personal property, and lease, mortgage, sell, or use the same in any manner conducive to its interest, to the same extent as natural persons. The county board of any county or the council of any city, or village, in which such societies exist, may in their discretion, appropriate for the maintenance and sup-

port of such societies in the transaction of the work for which they are organized, any sums of money not otherwise appropriated not exceeding twenty-four hundred dollars (\$2400.00) in any one year, provided that no part of such appropriation shall be expended for the payment of the salary of any officer of such society. (R. L. § 3127, amended '13 c. 31 § 1) [6564]

7936. Duties of peace officers—Fees—Any member of such association may require, and it shall be the duty of any sheriff or his deputy, any constable, police officer, or the agent of any such society, state or county, whose appointment has been approved by a judge of probate as provided in this subdivision, to arrest any person found violating the law relative to cruelty to persons or animals and to take possession of any animals in their respective municipalities which have been cruelly treated and deliver the same to the proper officers of the association. For such services such officers or agents shall be allowed and paid such fees as are allowed for like services in other cases, which fees shall constitute a part of the costs taxed on conviction. (3128) [6565]

LODGES, FRATERNAL ORDERS, ETC.

7937. Incorporation—Any subordinate lodge or encampment of Odd Fellows, any subordinate lodge of the Ancient Order of United Workmen, any subordinate lodge of Free and Accepted Masons, Grand Chapter of Royal Arch Masons, or Commandery of Knights Templars, any lodge of Ancient and Accepted Scottish Rites Masons of the Southern Jurisdiction, any subordinate lodge of Knights of Pythias, any state or county board of the Ancient Order of Hibernians, any subordinate lodge of the Scandinavian Aid and Fellowship Society, any subordinate or branch lodge of the I. Katolicka Slovenska Jednota v Spojenych Statoch Severnej Ameriky, and, any subordinate lodge of any similar body now existing or hereafter organized, installed under the authority of the grand bodies of such orders respectively, or of any other supreme body authorized to institute such subordinate bodies, any post of the Grand Army of the Republic, United Spanish War Veterans, Veterans of Foreign Wars of the United States, The American Legion, World War Veterans, and U. S. Navy Veterans, may become incorporated in the manner hereafter specified; and any body or organization hereinbefore named heretofore incorporated under any general or special law of the state of Minnesota or which shall hereafter become incorporated under the laws of the state of Minnesota, shall have the power to acquire or receive in its corporate name by purchase, gift, grant or bequest any property real, personal or mixed, and the same to hold, transfer, sell, mortgage, convey, loan, let or otherwise use, but not contrary to the laws or usages of the society or order of which it is a part. (R. L. '05 § 3129, amended '09 c. 42 § 1; '21 c. 364 § 1) [6566]

7938. Certificate—Contents—Record—Such commandery, chapter, lodge, encampment, post, division, section or board shall cause to be prepared, executed and acknowledged, by its presiding officer and recording officer, a certificate of incorporation which shall contain:

1. The charter name and number, if it has a number, of such commandery, chapter, lodge, encampment, post, division, section or board.
2. The time when and the authority by which the same was instituted.
3. The names of the charter members thereof and its location.

4. The names of the elective officers of such body for the current term.

Such certificate shall be recorded in the office of the register of deeds of the county in which such body is located, or if a grand body, in the office of the secretary of state, and thereupon such body shall become a corporation under its charter name with power in such name to sue and be sued, and to receive, acquire, hold, manage and dispose of property of every kind. (R. L. § 3130, amended '07 c. 369 § 1) [6567]

7939. Corporate seal—The seal of any such lodge, branch, commandery, or encampment shall be its corporate seal. (3131) [6568]

7940. Surrender of charter—Disposition of property—Whenever the charter of any such subordinate body shall be surrendered or taken away by the supreme body granting it, its corporate powers shall cease, except that it may sell and dispose of such of its property as is not designed for and used exclusively by said order, and collect debts, and all such property and debts shall be delivered up to said grand body, and be disposed of in accordance with its laws. (3132) [6569]

7941. Degree of Honor—A. O. U. W.—Power to incorporate—Any grand lodge of the Degree of Honor, Ancient Order of United Workmen, heretofore or hereafter instituted and authorized in this state, under the authority of the supreme lodge, Ancient Order of United Workmen, or of the superior lodge of the Degree of Honor, Ancient Order of United Workmen, and any subordinate lodge of the Degree of Honor, Ancient Order of United Workmen, now or hereafter existing under the authority of such a grand lodge of the Degree of Honor, Ancient Order of United Workmen, or the superior lodge of the Degree of Honor, Ancient Order of United Workmen, and located in this state, may incorporate, whether the same has heretofore incorporated or attempted to incorporate or not, in the manner provided herein. ('05 c. 4 § 1) [6570]

7942. Incorporation, how effected—Certificate—Such a grand lodge of the Degree of Honor, Ancient Order of United Workmen, or such a subordinate lodge of the Degree of Honor, Ancient Order of United Workmen, located in this state, desiring to become a body incorporate, shall so determine by a two-third vote of all its members present and voting thereon, at a regular meeting thereof, and to that end by the same vote at the same meeting, adopt and cause to be prepared a certificate which shall contain:

First—In the case of such a grand lodge of the Degree of Honor, Ancient Order of United Workmen, the name under which it was instituted and chartered by the supreme lodge, Ancient Order of United Workmen, or by the superior lodge of the Degree of Honor, Ancient Order of United Workmen, as the case may be. In the case of any such subordinate lodge of the Degree of Honor, Ancient Order of United Workmen, the name and number under and authority by which it was instituted and chartered.

Second—The date of the institution and the date of the charter issued to such grand lodge of the Degree of Honor, Ancient Order of United Workmen, or such a subordinate lodge of the Degree of Honor, Ancient Order of United Workmen.

Third—The names of the first or charter officers of such incorporating body.

Fourth—If a subordinate lodge of the Degree of Honor, Ancient Order of United Workmen, the place where it is located.

Fifth—The names and places of residence of the officers of such incorporating body, who hold such

offices at the time such certificate is filed, as herein-after provided.

Sixth—The objects or purposes of the society or order of which the incorporating body is a part, together with the powers and limitations upon the powers, if any, of the incorporating body to effect such objects or purposes.

Seventh—The length of time such corporation shall continue shall not exceed fifty years from its beginning. ('05 c. 4 § 2) [6571]

7943. **Certificate, how executed**—Such certificate shall be under the seal of the body so incorporating, if it have a seal, and the same shall be signed by the chief executive, or presiding officer, and the secretary or recording officer of the body so incorporating, and by them verified by their affidavit to the effect that the body so incorporating adopted the contents of the same by two-thirds vote of all its members present and voting thereon at a regular meeting of the same; and that the said body by the same vote at the same meeting authorized and directed them to sign and record the same as provided by law. ('05 c. 4 § 3) [6572]

7944. **Where recorded**—In the case of the incorporation of such a grand lodge of the Degree of Honor, Ancient Order of United Workmen, such certificates shall be recorded in the office of the secretary of state, and in the case of the incorporation of any such subordinate lodge of the Degree of Honor, Ancient Order of United Workmen, such certificate shall be recorded in the office of the register of deeds of the county where such subordinate lodge is located, or if it is located in a place which is situated in more than one county then the same shall be recorded in the office of the register of deeds of each of the counties in which such place is situated. ('05 c. 4 § 4) [6573]

7945. **Powers**—Upon the filing for record as aforesaid of such certificate as hereinbefore provided, the body so adopting and filing the same shall be and constitute a body corporate under the name, or the name and number, as the case may be, under which it was instituted and chartered, or by which it is known and authorized to exist as is set forth in said certificate hereinbefore provided, and the same shall, unless sooner dissolved as provided by law, continue as such body corporate for the time mentioned in such certificate for the same to continue, not exceeding, however, the period of fifty years from its beginning. And such corporation shall have power to sue and be sued by its corporate name and in such name to carry out the objects and carry on the business and execute the powers under the limitations and as may be provided and set forth in said certificate, which said certificate shall be and constitute its corporate charter or articles of association. And in such name such corporation shall have power to acquire or receive by purchase, gift, grant or bequest, any property, real, personal or mixed, and the same to hold, transfer, sell, mortgage, convey, loan, let or otherwise use in accordance with the laws of (or) usages of the society or order of which it is a part, and the laws of this state. ('05 c. 4 § 5) [6574]

7946. **Corporate seal**—The seal of the body so incorporating shall be its corporate seal, and the same may be changed in the manner it may determine. And if it have no seal it may adopt one, and alter the same as it may determine. Such seal shall be attached to all conveyances, by such corporation, of real property, and all such conveyances shall be signed by the chief executive or presiding officer and by the secretary or

recording officer of such corporation. ('05 c. 4 § 6) [6575]

7947. **Amendment of articles**—Such corporation may amend, alter, or repeal, any portion of its corporate charter or articles of association by adopting such amendment, alteration, or repealing clause, at a regular meeting of the same, by a two-third vote of all its members, present and voting thereon, and by the same vote at the same meeting adopting and causing a certificate thereof to be prepared, which certificate shall fully set forth the amended, altered or repealed portion thereof as so amended, altered, or repealed, and which certificate shall be signed by the chief executive or presiding officer and the secretary or recording officer of the corporation, and be by them verified by their affidavit to the effect that the corporation adopt the contents of the same by a two-thirds vote of all its members present and voting thereon, at a regular meeting thereof, and that said corporation by the same vote at the same meeting authorized and directed them to sign and record the same as provided by law. Such certificate shall be recorded in the same office, or offices, that the original certificates of incorporation of said corporation was recorded, and from the date when the same is filed for such record the said amendment, alteration, or repealing clause, shall take effect and be in force. ('05 c. 4 § 7) [6576]

7948. **Terms of officers**—The officers of any body organized and incorporated under the provisions of this act shall continue to hold their respective offices in such corporation until they are succeeded therein, as provided in the constitution or by-laws, or the rules and regulations of such body. ('05 c. 4 § 8) [6577]

7949. **Constitution, by-laws, etc.**—Any corporation, organized and incorporated under the provisions of this act, shall have power in such manner as it may determine to adopt a constitution, by-laws, rules and regulations, providing for its government and to carry on its business, and to determine who shall be members of same, and what officers it shall have, and how they shall be selected, and it may in the manner by it determined, alter, amend or repeal same. Provided, however, that the constitution, by-laws, rules and regulations, of any body incorporating under the provisions of this act that are in force at the time such incorporation is effected, shall continue in full force as the constitution, by-laws, rules and regulations of such corporation, until changes in the same theretofore or thereafter adopted by it in the manner by it provided, go into effect as by it provided. ('05 c. 4 § 9) [6578]

7950. **Revocation of charter**—Whenever the charter or warrant of authority of any such grand lodge or subordinate lodge of the Degree of Honor, Ancient Order of United Workmen, incorporated under the provisions of this act, is taken away, revoked, or surrendered, or such grand lodge or subordinate lodge becomes defunct, pursuant to the provisions of the constitution, or by-laws, or the rules and regulations of the governing body of said Degree of Honor, Ancient Order of United Workmen, having under the rules and laws thereof, jurisdiction so to take away, revoke, or receive the surrender of such charter or warrant of authority the corporate powers of such grand lodge or subordinate lodge, as the case may be, shall cease and determine except that such corporation, as such, shall have power to sell, convey and dispose of its property, and wind up its business affairs. ('05 c. 4 § 10) [6579]

7951. **Fraternal Order of Eagles**—Power to incorporate—That any subordinate aerie of the Fraternal

Order of Eagles instituted under the authority of the grand aerie of said order in the United States may become incorporated in the manner provided herein. ('07 c 364 § 1) [6580]

7952. Certificate—Record—Such subordinate aerie shall cause to be prepared a certificate which shall contain:

First—The character, name and number of such aerie.

Second—The time when, and the authority by which such aerie was instituted.

Third—The name of the charter members of such aerie.

Fourth—The location of such aerie.

Fifth—The name of its officers, to-wit: Worthy president. Worthy vice-president. Worthy chaplain. Junior past worthy president. Worthy physician. Worthy conductor. Inside guard. Outside guard. Trustees, three.

Such certificate shall be under the seal of such aerie, and signed by the officers of the aerie and shall be recorded in the office of the register of deeds in the county where such aerie is located, and in the office of the secretary of state. ('07 c. 364 § 2) [6581]

7953. Powers—Upon filing such certificate in the office of such register (of) and secretary, such aerie shall become a body corporate under its charter name and number, and shall have power to sue and be sued by its corporate name, and in such name to acquire or receive, by purchase, gift, grant, devise or bequest, any property, real, personal or mixed, and the same to hold, sell, transfer, mortgage, convey, loan, let or otherwise use in accordance with the laws and usages of said aerie, but said corporation has no power to divert any gift, grant or bequest from the special purpose designated by the donor. ('07 c. 364 § 3) [6582]

7954. Corporate seal—The seal of such aerie shall be its corporate seal. ('07 c. 364 § 4) [6583]

7955. Surrender of charter, etc.—Whenever the charter of any such subordinate aerie shall be surrendered or taken away by said grand aerie or whenever by the laws or usages of said order of such subordinate aerie shall become defunct, except that such corporation as such shall have power to sell, convey, and dispose of its property and to collect debts due it and all such property and debts shall be disposed of in accordance with the laws of said order. ('07 c. 364 § 5) [6584]

7956. Charter amendments authorized—This charter may be amended so as to change its corporate name, or in respect to any other matter which an original certificate of incorporation of the same kind might lawfully have contained, by the adoption of a resolution specifying the proposed amendment at a regular meeting or at a special meeting called for that expressly stated purpose, by a two-thirds vote of the members of the aerie present at the meeting in person or by proxy, and by causing such resolution to be embraced in a certificate duly executed by its worthy president and worthy secretary under its corporate seal and recorded in the manner provided for the recording of a like original certificate. Such amendment need not be published. ('07 c. 364 § 6, amended '23 c 42 § 1) [6585]

7957. Scottish Clans—Powers to incorporate—That any subordinate clans of the Order of Scottish Clans, instituted under the authority of the Royal Clans of said order, in the United States, may become incorporated in the manner herein provided. ('09 c. 152 § 1) [6586]

7958. Certificate—Any such subordinate clan located in this state, desiring to become a body incorporated shall so determine by a two-thirds vote of all its members present and voting thereon, at the regular meeting thereof; and to that end, by the same vote at the same meeting shall adopt and cause to be prepared a certificate which shall contain:

1. The name and number of such subordinate clan.

2. The time when and the authority by which such clan was instituted.

3. The name of the charter members of such clan.

4. The location of such clan.

5. The name of the officers duly elected and qualified at the execution of such certificate, holding the following offices, to-wit: Chief, past chief, tanist, financial secretary, secretary, treasurer and trustees.

6. The length of time said corporation shall continue shall not exceed fifty years from the date of the execution of the certificate. ('09 c. 152 § 2) [6587]

7959. Certificate, how executed—Such certificate shall be under the seal of the body so incorporated, if it has a seal, and the same shall be signed by the chief and secretary of the clan and shall be verified by an affidavit to the effect that the clan adopted the contents of the same by a two-thirds vote of the members present and voting thereon at the regular meeting of the clan; and that the said clan, by the same vote at the same meeting, authorized and directed them to sign and record same as provided by law. ('09 c. 152 § 3) [6588]

7960. Certificate filed—Powers of corporation—Upon filing such certificate in the office of the register of deeds, such clan shall become a body incorporated under its charter name and number and shall have the power to sue and be sued by its corporate name, and under such name, to acquire or receive by purchase, gift, grant, devise, or bequest, any property, real, personal or mixed, and to hold, sell, transfer, mortgage, convey, loan, let or otherwise use the said property in accordance with the laws and usages of said clan. ('09 c. 152 § 4) [6589]

7961. Corporate seal—The seal of said clan shall be its corporate seal, and such seal shall be attached to all conveyances by said corporation of real property and said conveyances shall be signed by the chief and the secretary of said clan. ('09 c. 152 § 5) [6590]

7962. Amendment of charter—Such corporation may amend, alter, repeal any portion of its corporate charter by adopting said amendments, alterations or repeal resolutions at a regular meeting of the same by a two-thirds vote of all its members present and voting thereon, and may cause a certificate setting forth such amendments, alterations, or repeal resolutions to be executed in the manner hereinbefore provided with reference to the original certificate. ('09 c 152 § 6) [6591]

RELIGIOUS CORPORATIONS

7963. Election of board of trustees for religious corporations—The stated worshipers with any church, congregation or religious society, not already incorporated, who are of lawful age and have been considered as belonging thereto, may elect trustees thereof and incorporate the same in the manner herein provided. A written notice signed by at least five of such stated worshipers, which notice shall state the time, place and object of the meeting, shall be posted at least fifteen days prior to the time therein fixed, in some conspicuous spot at the place of worship of some church, congregation or society. At the time and place so

fixed, such worshipers, not less than five thereof being present, shall, by a plurality vote, elect a chairman and secretary, who shall together determine the qualification of voters and receive and count the votes. The voters, as so determined, shall, by a plurality vote, elect not less than three nor more than fifteen members of their church, congregation or society as trustees, to take charge of its property and temporal affairs; and said voters shall also adopt a name, by which said trustees and their successors in office shall forever thereafter be known; and they may also determine the qualifications of the trustees thereafter to be chosen and the religious denomination or sect to which the society shall belong. Immediately after such meeting the chairman and secretary thereof shall sign, in the presence of two subscribing witnesses, and shall acknowledge a certificate which shall state the names of the trustees elected, the name adopted for the incorporated society, the qualifications of future trustees, if any shall have been determined by the electors, and the name of the religious denomination to which the society shall belong, if any shall have been selected. (R. L. '05 § 3133; G. S. '13 § 6592, amended '19 c. 122 § 1)

Change of name (37-241, 33+786). Held a corporation de facto (37-447, 35+260). Merely cited as to fact of incorporation (25-202; 69-141, 143, 71+1031; 81-32, 34, 83+487; 83-269, 270, 86+330).

7964. Powers of certain corporations—Any religious corporation, parish or diocese, which has been or may hereafter be formed under the laws of this state, allowing a bishop, vicar general, pastor of a parish with two laymen, or allowing a bishop, vicar general and chancellor of a diocese with two other members of the same religious denomination to form a corporation, such corporation shall have the power to sue or be sued, to hold, purchase and receive title by devise, purchase, gift, grant or otherwise, any property, real or personal, with power to mortgage, sell or convey the same or any part thereof without giving the notice or being authorized thereto, as required in the manner provided in section 3138 of the Revised Laws of Minnesota, 1905. [7969] ('07 c. 60 § 1) [6593]

7965. Certificate to be recorded—Powers of trustees—Such certificate, together with the certificate of acknowledgment and a copy of the notice of meeting and affidavit of the posting thereof, shall be recorded with the register of deeds of the county where the place of worship of such society is located, and thereafter such trustees and their successors shall be a body corporate by the name expressed in such certificate. Such trustees may have a common seal and alter the same at pleasure. They may take possession of all temporalities of such church, congregation, or society, real and personal, given, granted, or devised, directly or indirectly, to such body or to any other person for their use. They may sue and be sued in their corporate name, recover and hold all debts, demands, rights, and privileges, all churches, buildings, burial places, and all the estate and appurtenances belonging to such church, congregation, or society, however acquired or by whomsoever held, as fully as though originally vested in them; and they may hold other real or personal estate to an amount which will produce a yearly income of not more than three thousand dollars, and may demise, lease, and improve the same. (3134) [6594]

31-173, 176, 17+282; 69-141, 144, 71+1031.

See '15 c. 249 curing defects in conveyances to churches.

7966. Erection and repair of churches, etc.—Such trustees may repair and alter churches, make rules,

regulations, and orders for managing the temporal affairs of the church, congregation, or society, and dispose of all moneys belonging thereto. They may regulate the renting of pews or slips, and the breaking of ground in their cemeteries. Under the direction of the congregation or society they may erect churches and dwellings for their ministers, and other buildings for the use of the church, congregation, or society. They may appoint a clerk and treasurer of their board and a collector, regulate their compensation, and remove them at pleasure. The clerk shall enter all rules and orders made by the trustees, and payments ordered by them, in a book kept for that purpose. (3135) [6595]

Ratification of act of building committee (81-32, 83+487).

7967. Trustees—Term of office—Powers—The term of office of the trustees shall be three years, and until their successors are qualified. Immediately after their first election they shall be divided by lot into three classes, the first class retiring at the end of the first year, the second at the end of the second year, and the third at the end of the third year; and, as near as may be, one-third of the whole number shall thereafter be chosen annually. Two trustees may call a meeting of their board, and, when assembled, a majority of their whole number shall constitute a quorum for the transaction of any business. Fifteen days before the expiration of the term of office of any trustee the clerk shall give notice of the election of his successor, by posting the same at the place where the society stately meets for worship, therein stating the name of the trustee and the time and place of election; and in addition to such notice the minister or some other officer of such church or society shall give public notice of such election to the congregation at least one week before the election; and the foregoing provisions shall apply to filling vacancies by death, resignation, or removal. (3136) [6596]

7968. Qualifications of voters—Register, etc.—No person belonging to any such church, congregation, or society shall be entitled to vote at any election after its incorporation until he has been an attendant on public worship in such church, congregation, or society at least six months before the election, and contributed to its support according to its usages and customs. The clerk of the trustees shall keep a register of all persons who desire to become stated hearers in such church, congregation, or society, and therein note the time of such request, and he shall attend all subsequent elections in order to test the qualifications of such voters in case of question. Nothing in this subdivision contained shall be construed to give the trustees power to fix the salary of any minister, but the same shall be fixed by a majority of the society entitled to vote at the election of trustees. (3137) [6597]

Power to fix salary of minister (41-94, 42+922).

7969. Sale or incumbrance of real estate—Society defined—Any religious corporation organized under the provisions of this subdivision, by and through its trustees, may sell and convey, incumber, or otherwise dispose of any of its real estate; but no such conveyance or incumbrance shall be made by the trustees except when first authorized by resolution of such society adopted by a two-thirds vote of the members present and voting at a meeting thereof called for that purpose, notice of the time and place and object of which shall be given for at least four successive Sabbaths on which said society stately meets for public wor-

ship, immediately preceding said time. When any religious society ceases to have stated meetings for public worship or for any cause is unable to give such notice of the time and place of the meeting of such society, said corporation may make such sale, conveyance, or incumbrance by its trustees, upon being authorized by resolution as hereinbefore specified, adopted at a meeting of which at least twenty days posted notice has been given. If such society has, for any reason, ceased to exist, for a period of one year, the corporation may sell and convey its property by its trustees upon giving at least twenty days' posted notice upon the premises of its intention so to do. Proof of such non-existence, notice, meeting, and the adoption of resolution may be made by the affidavit of a trustee or member of the society cognizant thereof. Such affidavit shall be recorded in the register of deeds' office where the certificate of incorporation was recorded, and the same and the record thereof, or certified copies of such record, shall be presumptive evidence of the fact, therein contained. The word "society" as used in this chapter, and not otherwise qualified, shall mean the religious body constituted in accordance with the principles of the ecclesiastical policy which forms the basis of the corporation designated in this chapter as the church, congregation, or society, as distinguished from the corporation itself. No person shall vote at any meeting called to authorize the trustees to sell, convey, incumber, or dispose of any real estate of such corporation who is not a member of such religious body, and no such religious corporation shall sell, transfer, or otherwise dispose of any of its real estate in any manner other than as provided by the denominational rules and certificates of association of such society as the same appears of record in the office of the register of deeds of the county; Provided, that nothing herein contained shall in any manner affect or infringe any provision of Chapter 59. (3138) [6598] (Amended '25, c. 194, § 1)

The provisions of R. L. 1905, c. 59, are included in chapter 59 hereof.

126-232, 148+271; 131-203, 154+969.

Division of property where honest difference of opinion arises both parties still adhering to the faith or doctrines of the church (149-380, 183+954.

7970. Existing societies confirmed—Reorganization—Every church, congregation, or religious society heretofore incorporated under any general or special law, and not since dissolved, is hereby confirmed. In case of the dissolution of any such corporation, or of any corporation formed under the provisions of this subdivision, the same may be incorporated or reincorporated under the provisions thereof at any time within six years after such dissolution; and thereupon all the estate, real and personal, at any time belonging thereto, and not lawfully disposed of, shall vest in said corporation the same as though there had been no dissolution. (3139) [6599]

37-241, 242, 33+786.

7971. Lands held in trust—Lands, tenements, or hereditaments conveyed by devise, grant, purchase, or otherwise, to any persons as trustees in trust for the use of any religious society heretofore or hereafter organized, for a meeting house, burial ground, or parsonage, with the improvements thereon, shall descend in perpetual succession, and be held by such trustees in trust for such society. (3140) [6600]

69-141, 145, 71+1031.

The law against suspending the power of alienation is hardly applicable to the plot of ground wherein rest the dead (143-302, 173+659).

7972. Appointment of trustees—Whenever by the constitution, rules, or usages of any particular church, denomination, congregation, or religious society, trustees are required to be appointed, elected, or chosen in any way, by any minister, presiding elder, or other officers, or by any conference, assemblage, body, or meeting of any kind, and are so appointed, elected, or chosen, such minister, presiding elder, officers, or the presiding officer and secretary of any such conference, assemblage, body or meeting so appointing, electing, or choosing trustees, shall execute, acknowledge, and deliver to such trustees a certificate, stating the names of such trustees, the time when and the persons or body by which they were appointed, elected, or chosen, and the name by which such trustees and their successors in office shall forever thereafter be called and known. Upon the filing and recording of such certificate as required by law, such trustees, and their successors appointed or chosen in the same manner, shall be a body corporate under the name specified therein, and have all the rights, powers, and privileges of other religious corporations organized under this subdivision. (3141) [6601]

7973. Certificate of election of trustees—Whenever trustees have been heretofore elected, appointed, or in any way chosen by a conference or assembly of any kind, of any church or religious society, in accordance with its own constitution, rules, or usages, and a certificate thereof made by its presiding officer and secretary, or either of them, specifying the corporate name by which such trustees are to be known, and duly recorded, with intent to make such trustees a body corporate, they shall in all legal proceedings be deemed a religious corporation under the provisions of this subdivision from the time of the recording of such certificate, and all their acts thereafter as a corporation shall be as valid and as effectual as though originally formed under the provisions of this subdivision; and all conveyances to such trustees as a corporation are hereby confirmed and declared valid. (3142) [6602]

7974. Certificate when designated persons are trustees—Whenever by the constitution, rules, and usages of any particular church or religious denomination, the minister or ministers, elders, and deacons, or other officers elected by any church or congregation according to such constitution, rules, or usages, are thereby constituted the trustees of such church or congregation, such designated persons may assemble and execute and acknowledge a certificate, stating therein the name by which they and their successors in office shall forever thereafter be called and known. Upon the filing and record of said certificate with the register of deeds of the proper county, such persons and their successors shall be a body corporate by the name expressed therein. (3143) [6603]

7975. Organization of parish corporations—The bishop of any religious denomination may associate with him the vicar general of the same diocese and the pastor of such denomination of the parish wherein a corporation is to be located, which shall be within the diocese of such bishop, and said bishop, vicar general, and pastor, or a majority of them, shall designate and associate with them two lay members of any such denomination, and, upon adopting, signing, and acknowledging in duplicate a certificate of incorporation reciting the fact of such association, and of the selection of such laymen, and containing the name, general purpose, and place of location of such corporation, and having one such certificate recorded with the register of deeds of the county of its location and the other

filed with the secretary of state, the said five persons and their successors shall become a corporation, subject to all the requirements, and vested with all the rights, powers, and privileges, of a religious corporation. The persons at any time holding the offices hereinbefore specified in any diocese shall by virtue of their respective offices be members of, and, with the two laymen aforesaid, constitute, such corporation, but every such person, on ceasing to hold such office, shall cease to be a member thereof, and his successor in office shall become a member in his place. The two laymen designated as aforesaid shall remain members for the term of two years from the date of the certificate, and thereafter their term of office shall be two years, and in either case until their successors are chosen. They shall always be designated and appointed by the three first named corporators, who shall also fill all vacancies in their number. Their appointment shall be in writing and entered upon the records of the corporation. Should there at any time be a vacancy in the office of bishop of any diocese, or should any other person be appointed in his stead to administer the spiritual and temporal affairs of such diocese, then, during such vacancy or suspension of the authority of such bishop, such administrator of the affairs of the diocese, or any other person appointed under the rules of such denomination to preside over and administer its affairs, shall, while acting as such administrator or appointee, be a member of such corporation, with all the rights and powers incident thereto; but his membership shall at once cease when such vacancy has been filled or suspension of authority removed. If any diocese now existing or hereafter created, in which any such corporation is or may hereafter be located, shall be subdivided according to the rules and practice of such denomination, and one or more new dioceses formed therefrom or from parts thereof, the bishop and vicar general of any such new diocese and their successors in office, as soon as appointed and instituted, shall, by virtue of their respective offices, forthwith become members of any such corporation within such new diocese, with all the rights, duties, privileges, powers, and obligations of such members, and the bishop and vicar general of the diocese in which such corporation was located prior to such subdivision shall cease to be members thereof. (3144) [6604]

7976. Diocesan corporations — Formation — The bishop of any such diocese may associate with him the vicar general and chancellor of such diocese, and they, or a majority of them, shall designate and associate with them two other members of such religious denomination, residents of such diocese, and upon adopting, signing, and acknowledging in duplicate a certificate reciting the fact of such association and selection of such two persons, and containing the name, general purpose, and location of such corporation, and filing and recording the same, as provided in § 7975, the said five persons and their successors shall become a corporation, with power to take, hold, receive, and dispose of any real or personal property for the use and benefit of such diocese, and for the use and benefit of the religious denomination therein creating such diocese, and to administer the temporalities of such diocese, to establish and conduct schools, seminaries, colleges, or any benevolent, charitable, religious, or missionary work or society of such religious denomination within such diocese, with all the rights, powers, and privileges enumerated in this and § 7975. The persons who may hold the offices, respectively, of bishop, vicar general, and chancellor of such religious denomination within and for such diocese, and their succes-

sors in office forever, shall, by virtue of their respective offices, always be members of such corporation, but on ceasing to hold such office the corporate membership of each shall at once cease. The other two incorporators and their successors in office shall always be selected and appointed by the bishop, vicar general, and chancellor of such diocese, or a majority of them, for the same term and in the same manner as provided in § 7975 for the selection and appointment for the two laymen by the bishop, vicar general, and pastor, and all vacancies shall be filled by the three first named corporators. Every such appointment shall be in writing and entered of record in the minutes of the corporation, and such appointees shall be members of such religious corporation and residents of the diocese of its location. Any corporator so selected may at any time resign, and such resignation and its acceptance shall always be entered on the minutes of said corporation. In case of a vacancy in the office of bishop of such diocese or the temporary suspension of his authority to act, the provisions of § 7975 in reference to such a case shall in all respects apply. Any member of either corporation specified in this and § 7975 may by a writing signed by him appoint a proxy to represent and act for him, and in his name and stead to vote at any meeting of such corporation. (3145) [6605]

7977. Formation—Certificate—Powers—Any parish of the Protestant Episcopal church organized under and in conformity with the constitution and canons of any diocese now or hereafter existing in this state may form a corporation as follows: Such parish shall cause to be prepared a certificate containing:

1. The name and location of the parish.
2. The name of the rector, if any, and of the church wardens, and the names and number of the vestrymen, which shall not be less than three nor more than twelve.
3. The date of the organization of said parish.
4. Said certificate shall be signed and duly acknowledged by said rector, if any, and by a majority of said wardens and vestrymen. (R. L. '05 § 3146; G. S. '13 § 6606, amended '21 c. 255 § 1)

7978. Filing certificate—Powers of corporation— Upon signing, acknowledging, and filing such certificate for record with the register of deeds of the county of its location, such parish shall become a corporation by the name specified in its certificate, and by and through its officers may transact all the business of said parish, including calling a rector and determining his salary; and in its corporate name may acquire or receive by purchase, gift, grant, devise, or bequest any property, real, personal, or mixed, and hold, sell, transfer, mortgage, convey, loan, let, or otherwise use the same for the use and benefit of said parish; provided, that such use shall not contravene the laws and usages of the Protestant Episcopal church of the state; but it shall not have power to divert any gift, grant, or bequest from the purpose specified in writing by the donor, or deviser, nor to sell, convey, or mortgage its church or church site except when first authorized so to do in a meeting of the parish called for that purpose, nor in contravention of the canons of the diocese or of the general convention of the Protestant Episcopal church of the United States. (3147) [6607]

7979. Annual meeting—Election of vestry—The annual meeting of said corporation shall be holden at the parish church or parish house, if there be either, on Easter Monday of each year, or at such other time as the parish may designate in its articles of incorporation, at which annual meeting church wardens and

vestrymen shall be elected, in such manner as shall be determined upon by the parish, by electors having the qualifications which are or may be prescribed by the canons of the Protestant Episcopal church for the diocese or missionary district in which said corporation is located, in the state of Minnesota; but any parish organized under this law may at any annual meeting adopt a by-law providing for the election of one-third of the vestrymen of said parish for one year, one-third for two years, and one-third for three years, and at said meeting may elect vestrymen in accordance with such by-law; and at each succeeding annual meeting one-third of said vestrymen shall be elected for a term of three years, and said by-laws may also provide that no vestrymen shall, at the expiration of his term of office, be eligible for re-election as vestrymen until the next annual meeting; said church wardens and vestrymen shall hold their respective offices until their successors are elected. (R. L. § 3148, amended '07 c. 18) [6608]

7980. Incorporated parish of Protestant Episcopal church may amend articles—Any parish of the Protestant Episcopal church incorporated under the laws of the state or territory of Minnesota, may amend its articles of incorporation and thereby change and fix the time of holding its annual parish meeting by adopting at its annual parish meeting by majority vote of those present a resolution fixing or changing the date of holding its annual parish meeting and by causing such resolution to be embraced in a certificate duly executed by its rector or other presiding officer and by its clerk and filed for record with the register of deeds of the county of its location. ('23 c. 369 § 1)

7981. Meetings of vestry—The rector of such parish shall ex officio be a member, and, when present, the presiding officer of the vestry, and entitled to vote at all its meetings. Meetings may be called by the rector at his discretion, or by either warden at the request of a majority of the vestrymen, on three days' notice in writing to each member of the vestry. (3149) [6609]

7982. Formation of cathedrals for Protestant Episcopal church—Any cathedral for which a constitution and statutes have heretofore been, or may hereafter be, adopted by the diocesan convention of any diocese in this state of the Protestant Episcopal church in the United States of America may form a corporation as follows:

Such cathedral shall cause to be prepared a certificate containing:

1. The name and location of the cathedral.
2. The persons who constitute the chapter of the cathedral, and their names, of which chapter the bishop of the diocese and the wardens and vestrymen of the cathedral congregation shall be members.
3. The date of the adoption by the diocesan convention of the constitution and statutes of the cathedral.
4. Said certificate shall be signed and duly acknowledged by the bishop of the diocese and by a majority of the members of the chapter, and shall be filed for record in the office of the register of deeds of the county in which such cathedral is located, and in the office of the secretary of state of the State of Minnesota. ('15 c. 46 § 1)

7983. To be filed with certain officials—Upon the signing, acknowledging and filing such certificate for record with the register of deeds of the county of its location, and with the secretary of state of the State of Minnesota, such cathedral shall become a corporation by the name specified in its certificate, and by and

through its chapter may transact all the business of said cathedral; and in its corporate name may acquire or receive by purchase, gift, grant, devise or bequest, any property, real, personal or mixed, and hold, sell, transfer, mortgage, convey, loan, let, or otherwise use the same for the use and benefit of said cathedral; provided, that such use shall not contravene the laws and usages of the Protestant Episcopal church in the United States of America of this state; but it shall not have power to divert any gift, grant or bequest from the purpose specified in writing by the donor or deviser, nor to sell, convey or mortgage its church or church site, except with the consent of the bishop in writing and when first authorized to do so at a meeting of the chapter called for that purpose, nor in contravention of the canons of the diocese or of the general convention of the Protestant Episcopal church in the United States of America. ('15 c. 46 § 2)

7984. Government of cathedral—The chapter of said cathedral shall be governed by the constitution and statutes which have been adopted for it by the diocesan convention and any amendments made thereto as provided therein. ('15 c. 46 § 3)

7985. Incorporation in other cases—The members of any church or religious society, not less than three in number, not wishing to form a corporation under any of the preceding provisions of this subdivision, may become a corporation by adopting and signing a certificate containing:

1. Its name, general purpose and plan of operation, and its location.

2. The terms of admission, qualification for membership, selection of officers, filling vacancies, and the manner in which the same is to be managed.

Such certificate shall be recorded with the register of deeds of the county of its location.

And any existing corporation created by special law, which does not desire to incorporate under any preceding provision of this subdivision, may reincorporate under the provisions of this section, when authorized by a three-fourths vote of its members present and voting at a stated meeting called for the purpose of considering such reincorporation. (3150) [6610]

7986. Existing churches may incorporate—Reincorporation—Every church or society organized as such, and not incorporated, may become a corporation by executing, acknowledging, and causing to be recorded with the proper officers a certificate of incorporation under this subdivision. And thereupon, and also when any existing religious corporation shall reincorporate under this subdivision, all property and franchises of every kind belonging to such society or such original corporation, as the case may be, shall vest in the corporation so organized; but rights in pews possessed by any members at the time of any such reorganization shall not be impaired. And such board of trustees or other governing body of any corporation so reorganizing, or their survivors, when requested by the governing board of such new corporation, shall convey to the new corporation, by sufficient deed, all property owned by it. Such conveyance shall recite the fact of such reorganization, shall be prima facie evidence of the facts therein stated, and shall pass all title to the property therein described possessed by the corporation in whose behalf it is executed. (3151) [6611]

69-141, 144, 71+1031.

7986-1. Corporate existence validated—The corporate existence of any religious society in this state which has functioned as such for a period of not less

than fifty years, where the original articles of incorporation have not been filed, or recorded, in the proper office and have become lost or destroyed, is hereby in all things validated and confirmed and the corporate existence of such religious society is hereby continued, provided however, that an affidavit made by an officer of such society setting forth the aforesaid facts is filed and recorded with the Register of Deeds in the proper county within six months of the passage of this act. ('27, c. 341, § 1)

7986-2. Same—Property transfers validated—All transfers of real property heretofore made by such corporation are hereby in all things confirmed, provided however, that nothing herein contained shall affect any pending litigation. ('27, c. 341, § 2)

7987. Diocesan council—Synod—Conference, etc.—Incorporation—Any diocesan council, synod, presbytery, conference, association, consociation, or other general organization for ecclesiastical or religious purposes, existing in any church or religious denomination in this state, and which, according to the polity, constitution, canons, customs, discipline, or usages of such church or denomination, is composed of or represents several parishes, congregations, or particular churches, may form a corporation by adopting a canon or resolution stating:

1. Its purpose to form such a corporation.
2. Its name and its general purposes and powers, not inconsistent with law.
3. The name of the church or religious denomination to which the body organizing the corporation belongs, and the district or territorial limits of its jurisdiction.
4. The number and official titles of the officers through whom it shall act, and by whom and in what manner such officers shall be elected or appointed, and the length of their terms, and their general duties, powers, and authority.
5. The names and address of those elected or appointed as the first officers of the corporation. (3152) [6612]

72-498, 508, 75+692.

7988. Approval of attorney general—Recording—Amendments—A copy of such resolution or canon, certified by the presiding officer of the body adopting it, and verified by the affidavit of its secretary or clerk, with the certificate of the attorney general that the same conforms to law indorsed thereon, shall be filed with the secretary of state, who shall record the same at length, including such indorsement, and issue his certificate that, the provisions of law having been complied with, said body has become duly incorporated according to law. The secretary of state shall keep in a book in his office an alphabetical index of all such corporations. The body organizing such corporation or its successor, by resolution or canon adopted by it at two regular successive sessions thereof, and so certified, verified, and recorded with the secretary of state, may amend or modify the resolution under which the corporation was formed, in respect to its jurisdictional limits, or to the number, official titles, terms of office, or the manner of electing or appointing officers, or their duties, powers, and authority, or to the purposes and powers of the corporation not inconsistent with law, and not impairing any trusts or vested rights of property. (3153) [6613]

7989. Special powers of such corporations—Any such corporation may receive in trust for any parish, mission, local church society, or congregation, whether incorporated or not, any property, real or personal,

which may be given, granted, transferred, devised, or bequeathed to it for the use of such parish, mission, local church society, or congregation, for religious, charitable, or educational purposes, and may hold the same, and the rents, issues, and profits thereof, until such parish, mission, local church society, or congregation shall demand a conveyance thereof, accounting from time to time, when required, for the rents, issues, and profits. Any property now held in trust by any person, corporation, or trustees for the use and benefit of the religious body forming a corporation under the provisions of § 7988, or any of its parishes, missions, societies, congregations, or local churches, may, with the consent of the beneficiary be conveyed and the title thereto vested in the said corporation as the successor in such trust, but no such corporation shall have power in any manner to create any lien upon or incumber any property held by it in trust as aforesaid. (3154) [6614]

7990. Place of annual meeting—Notice—Any such corporation, the membership of which in part resides in other states, may hold its annual meetings at such points outside the state as it may from time to time designate at a previous annual meeting, or it may authorize its president to designate such place. At least three months before the time of such annual meeting notice of such time and place shall be given by publication in the recognized organ of such corporation, if it has one; otherwise by publication in at least two papers of general circulation published at the capital of the state. (3155) [6615]

7991. Consolidation of parishes, congregations or churches authorized—Any diocesan council, synod, presbytery, conference, association, consociation, or other general organization for ecclesiastical or religious purposes composed of or representing several parishes, congregations, or particular churches, and incorporated under the laws of this state, may unite or consolidate with one or more other diocesan councils, synods, presbyteries, conferences, associations, consociations, or other general organizations for ecclesiastical or religious purposes, or may with one or more such other societies form one new society for ecclesiastical or religious purposes, and when any such united or consolidated society, or any such new society, shall have been incorporated, may convey and transfer its property to such corporation according to law. ('17 c. 107 § 1)

7992. Procedure for incorporation—Any two or more societies of the classes named in the preceding section may form a corporation by adopting a canon or resolution and having a copy thereof certified, verified, approved by the attorney general and recorded as provided by sections 3152 and 3153, Revised Laws of Minnesota, 1905. The canon or resolution may be adopted in joint session by representatives, delegates and others entitled to vote at the regular meetings of such societies, respectively, for the year in which such canon or resolution is adopted or may be adopted in joint session by committees of such societies, elected or appointed by them respectively for that purpose. ('17 c. 107 § 2)

Explanatory note—For R. L. '05, §§ 3152, 3153, see §§ 7987, 7988, herein.

7993. Privileges permitted—Every corporation formed as in this act provided, shall have the same franchises, powers, privileges and immunities as corporations organized and existing under sections 3152 to 3153 inclusive of Revised Laws of Minnesota, 1905. ('17 c. 107 § 3)

Explanatory note—For R. L. '05, §§ 3152, 3153, see §§ 7987, 7988, herein.

7994. Right to hold property—Every corporation organized under this act shall hold all property conveyed or transferred to it for such use, and subject to such trusts and conditions as such property is held by the corporation conveying or transferring the same. ('17 c. 107 § 4)

Courts will not interfere in matters of doctrine, but of temporal affairs in disposition of church property (152-164, 188-217).

7995. Amendment of certificate—Any religious corporation, by a resolution adopted, certified, acknowledged, and recorded in the same manner as its original certificate, may alter, modify, or add to such original certificate in any manner not inconsistent with law. When recorded, such amended certificate shall take the place of the original. (3156) [6616]

7995-1. Amendment of articles of incorporation—Additional method provided—Cemeteries—Any religious society, religious association, or religious corporation, heretofore formed or reorganized and now existing pursuant to the provisions of Chapter 229, General Laws 1889, upon compliance with the provisions of this Act, may alter or amend its articles of incorporation as to any matter or thing which, under said Act, could have been included in the original articles of incorporation adopted pursuant to said Act; provided, however, that nothing herein contained shall authorize or empower any such religious organization to amend or alter, in the manner provided by this act, its said articles of incorporation in respect to any matter relating to the management or the conduct of the affairs of any cemetery now or hereafter owned or controlled by such religious organization where such cemetery is now or hereafter may be managed or conducted pursuant to provisions of Sections 7606 to 7609, both inclusive, General Statutes 1923. ('25, c. 357, § 1)

7995-2. Same—Powers of trustees or other governing boards—The board of trustees, the board of administration, or other governing body of any such religious organization, may, by unanimous vote of all the members of said board or governing body, so alter or amend such articles of incorporation when authorized so to do at any special meeting of such religious organization called for such expressly stated purpose, which such special meeting a majority of the members of such religious organization are present, which authority shall be by resolution passed by vote of a majority of the members present and voting at such meeting of such religious organization. The board of trustees, the board of administration, or other governing body of any such religious organization shall cause such resolution to be embraced in a certificate duly executed and acknowledged by its president and secretary, or by its other presiding and recorded officers, under the corporate seal of said religious organization, and such certificate shall be presumptive evidence of the facts therein stated. Such certificate shall be recorded in the office of the Register of Deeds of the county in which such religious organization is located and shall be recorded in the office of the Secretary of State, and thereupon such alteration or amendment shall become effective. ('25, c. 357, § 2)

7995-3. Same—Method provided is additional—The manner of amendment, authorized by this Act, of the articles of incorporation of any such religious organization shall be in addition to the manner in which amendments to the articles of incorporation of any such religious organizations are now authorized by

law; and nothing in this Act contained shall abridge, or in any manner or to any extent affect, the right of any religious organizations to alter or amend their articles of incorporation in the manner now authorized by law. ('25, c. 357, § 3)

7996. How consolidated—Any two or more incorporated churches, congregations or religious societies () may consolidate and reorganize as a single church, congregation or society by complying with the provisions of law for the formation of such church, congregation or society contained in this subdivision. (R. L. § 3157, amended '13 c. 42 § 1) [6617]

7997. Procedure—Notice of meeting—Proof—Before any action is had for that purpose, a resolution authorizing such consolidation and reorganization shall be adopted by at least two-thirds of the members present and voting at a meeting of each of said churches, congregations, or societies called for that purpose, notice of the time, place, and object of which shall be given on four successive Sabbaths, on which such society statedly meets for public worship, immediately preceding the time specified for such meeting. Proof of the fact of such notice, meeting, and resolution may be made by affidavit of one of the officers or members cognizant of the facts, which shall be recorded with the certificate of incorporation. (3158) [6618]

7998. Organization—Powers of new corporation—After the adoption of such resolution by said several churches, congregations or societies, notice shall be given stating the time and place of the meeting of the united congregation of all said churches, congregations or societies by posting the same at the place where each society statedly meets for worship at least fifteen days prior to such meeting, and the minister or some other officer of each society shall give public notice of said meeting at the usual Sabbath service at least one week before the meeting. The notice for such meeting shall be signed by the clerk of the board of trustees of each church, or by some other person authorized by such board to sign the same. At the meeting of the united congregation held pursuant to said notice, a name shall be adopted for the new corporation and the meeting shall fix the qualifications for trustees and the number of trustees of the new corporation, which shall be not less than three or more than twelve, and a new board of trustees shall be elected by a majority vote of all the members present.

The board of trustees shall be divided into three classes, one class shall be elected and hold office until the next annual meeting of the congregation, one class until the second annual meeting of the congregation, and one class until the third annual meeting of the congregation. Thereafter, the terms of office of the trustees shall be three years and until their successors are elected and qualified. In case a vacancy shall occur in the board of trustees, at the next meeting of the congregation a successor shall be elected to fill the unexpired term caused by such vacancy.

After said meeting the chairman and secretary shall make a certificate in the form and manner prescribed by section 3133 of the Revised Statutes [7963], and such certificate, together with proof by affidavit of the giving of proper notice of the meeting, and the affidavits provided for in section 3158 of the Revised Statutes [7997], shall be recorded in the office of the register of deeds of the county where the place of worship of said consolidated society is located, and thereupon such churches, congregations or societies shall be merged into a new corporation under the name specified in the certificate and the new corporation shall have the rights, powers and privileges and shall be

liable for all the obligations of the several corporations so consolidated and all of the property of every kind and nature of the original corporation shall vest in the new corporation. (R. L. § 3159, amended '13 c. 42 § 2) [6619]

7999. When society ceases to exist, property how disposed of—Whenever any religious society, which is in any way under the control or supervision of a superior body, ceases to exist or to maintain its organization, all its remaining real and personal property shall vest in and be transferred, in the manner hereinafter provided, to the incorporated annual conference, presbytery, diocese, diocesan council, association, or other incorporated governing or supervising body of the same religious denomination within whose jurisdiction such society was located, or with which it was affiliated, it being intended that said property shall vest in and be transferred to the next higher governing or supervising corporate body of the same denomination. (3160) [6620]

8000. Hearing—Upon application to the district court of the county where such society was located by any member of the body in which said property is to vest as aforesaid, said court shall appoint a time for hearing the application, and three weeks' published and posted notice thereof shall be given, and any additional notice which the court may direct. If upon the hearing it appears that a proper case exists therefor under § 7999, the court shall adjudge and direct a transfer thereof to be made through a trustee appointed by it for that purpose. Affidavits of the notice may be filed in said proceedings, and they shall be evidence in all actions and proceedings in the courts of the state. (3161) [6621]

8001. General powers of religious corporations—Every corporation organized under this subdivision may, in its corporate name, sue and be sued, hold, purchase, and receive title by gift, grant, or other conveyance of and to any property, real or personal, with power to mortgage, sell, or convey the same, may adopt all by-laws and make all regulations necessary or expedient for the management of its affairs in accordance with law. (3162) [6622]
(143-301, 173+659).

8002. Limitation of right to hold property—Nothing in this chapter contained shall be construed to authorize the taking or holding of real or personal property by any religious corporation for purposes other than those of its incorporation, and all of its provisions are subject to any limitation or modification which may hereafter be enacted by general laws as to the amount of property which may be held by the corporations herein provided for. (3163) [6623]

8002-1. Real property conveyed to bishop, right reverend bishop, archbishop or most reverend archbishop in official capacity to be of religious denomination vested in society, body or congregation—Action in district court—Decree—Whenever it shall be made to appear to any District Court of this State that prior to the year 1907 real property was conveyed to a bishop, or a right reverend bishop, or an archbishop, or a most reverend archbishop of any religious denomination or church in his official capacity as bishop and to his successors in office, or as trustee under an oral or written trust for any incorporated or unincorporated society, body, association, or congregation in this State, whether said grantee is designated as trustee in the conveyance or not, and the consideration therefor was paid by said society, body, association, or congregation, and at the time of said conveyance said religious

denomination or church had its central or supreme government in a foreign country or nation and was the state church of said foreign country or nation, and thereafter the form of government of said foreign country or nation was changed and said religious denomination or church ceased to be the state church thereof, and the record title to said real property is in the name of said grantee or his successor in office, and said society, body, association, or congregation, whether incorporated or not, is in possession of said real property and has been in possession thereof for a period of ten or more years under a claim of ownership, said District Court shall, in an action brought by said society, body, association, or congregation, make a decree vesting the title, both legal and equitable, to said real property in said society, body, association, or congregation; provided that any such society, body, or congregation which is now unincorporated shall become incorporated under the laws of this State prior to the commencement of said action. ('27, c. 120, § 1)

8002-2. Same—Procedure in action—Actions under this act shall be brought in the same manner as actions to quiet title to real property in this State, as provided in Chapter 82 of General Statutes 1923. ('27, c. 120, § 2)

8002-3. Same—Pending actions not affected—The provisions of this act shall not apply to or affect any action now pending in any of the courts of this State. ('27, c. 120, § 3)

YOUNG MEN'S AND YOUNG WOMEN'S CHRISTIAN ASSOCIATIONS

8003. Young Men's Christian Association—Certificate—Any number of persons not less than three may form a corporation to be known as a Young Men's Christian Association, by adopting, signing, and acknowledging a certificate of incorporation containing:

1. The names and places of residence of the incorporators.
2. The name of the corporation, the location of its principal place of business, and the period of its duration.
3. The objects of its organization expressly stated.
4. The number of its directors, not less than five nor more than thirty, who shall manage its affairs, how and when elected, and the time and place of holding annual meetings.
5. The terms of admission to active membership.

Such certificate shall be executed in duplicate, and one filed with the secretary of state and the other with the register of deeds of the county of its principal place of business. (3164) [6624]

8004. Classification of members—The directors may in their by-laws divide the members into active, senior, junior, associate, and such other classes as they may deem convenient, and determine the qualifications for associate membership and provide rules for the trial and expulsion of members. Only active members shall be entitled to vote or hold office in such corporation. (3165) [6625]

8005. Board of trustees may manage real property—Any such association may create a board of trustees to control its property. Such board shall consist of not less than five trustees, of whom the president of the association shall ex officio be one. Each trustee shall be a member in good standing of some Protestant Evangelical church, but not more than three, exclusive of such president, and in no case a majority, shall be members of any one church denomination. The first

board of trustees shall be elected at any regular meeting of the association by a majority vote of the members thereof entitled to vote thereat present and voting, and shall hold office for such time as may be prescribed by its by-laws. Vacancies shall be filled by a majority vote of the remaining trustees from nominations made by the board of directors or managers. (3166) [6626]

8006. Property rights—Such board shall have the control of the real property of the association and such other property as its board of directors or trustees may designate. No real property belonging to the association shall be conveyed, disposed of, or mortgaged without the consent of said board, nor shall the same be liable for any debt or obligation of the association unless the same shall have been contracted with its approval. All property so under the control of said board and the income thereof shall be devoted only to the purposes of the association, and so long as the directors and managers of the association shall so expend the same such income shall be paid over to the treasurer of said board of directors or managers. (3167) [6627]

8007. Reincorporation—Any religious society now conducting its affairs as a Young Men's Christian Association may reincorporate under the provisions of §§ 8003-8006, but in such case the certificate of incorporation shall be executed by all of the directors of such association. Upon such reincorporation, all of the property of such society shall pass to and vest in the corporation so formed, without further action. (3168) [6628]

8008. Young Women's Associations—That all the provisions of sections 3164 to 3168 [8003-8007] inclusive, of the Revised Laws of Minnesota for the year 1905 shall be applicable to Young Women's Christian Associations as well as to Young Men's Christian Associations. ('09 c. 45 § 1) [6629]

• MINNESOTA HISTORICAL SOCIETY.

8008-1. Custodianship of record, etc., by Minnesota Historical Society—Copies as evidence—The Minnesota Historical Society is hereby authorized to receive and is made the custodian of such records, files, documents, books, and papers as may be turned over to it from any of the public offices of the state, including state, county, city, village and township offices. It shall provide for their preservation, classification, arranging, and indexing, so that they may be made available for the use of the public. Copies of all such papers, documents, files, and records, when made out and certified to by the superintendent of said society, shall be admitted as evidence in all courts, with the same effect as if certified to by the original custodian thereof. ('19, c. 170, § 1)

8008-2. Same—Records, etc., how transferred to society—Any public official is hereby authorized, upon the conditions hereinafter provided, to turn over to the said society, such records, files, documents, books, and papers in his custody as are not in current use whenever said society is prepared to receive and care for them; provided, however, that said society shall present to such official a petition or application in which such records, files, documents, books or papers shall be described in terms sufficient to identify the same, and which said petition shall be approved by the government, in case of a state officer, the board of county commissioners, in case of a county officer, and by the governing body of any city, village or town in case of a city, village or town officer, and which said applica-

tion shall be filed in the office from which such records, files, documents, books or papers have been turned over to said society; provided, also, that this act shall not repeal or annual the provisions of section 134 of the General Statutes of 1913. ('19, c. 170, § 2)

Explanatory note—Section 3 of Laws 1919, c. 170, repeals all inconsistent acts and parts of acts. For G. S. '13, § 134, referred to in this section see supra, § 145.

ACTIONS RESPECTING CORPORATIONS

8009. Mode of prosecution—Foreign corporations may prosecute in the courts of this state in the same manner as domestic corporations, and neither shall maintain an action upon an obligation or liability arising out of, or in consideration of, an act which is contrary to law or public policy or forbidden to the other. Except as otherwise expressly provided by law, actions against them shall be commenced by summons, and proceed in the same manner as civil actions against natural persons. (3169) [6630]

Right of receivers of foreign corporation, appointed by federal court to sue in this state (122-250, 142-315). Liability of stockholders in foreign corporations must be enforced in this state by a suit in the nature of a creditors' bill. 212-911.

8010. Mandatory and restraining orders—Upon complaint filed under the direction of the attorney general in any district court, such court may restrain by injunction any corporation from assuming or exercising any franchise, liberty or privilege or transacting any business not authorized by its act of incorporation, and may restrain any individuals from exercising any corporate rights, privileges or franchises not granted them by law. Such injunction may be issued before answer upon satisfactory proof that the defendant has usurped, exercised, or claimed any franchise, privilege, liberty, or corporate right not granted to it. (3170) [6631]

8011. Power of court over corporation officers—In any case affecting a corporation the district court may:

1. Require any officer thereof to account for his official conduct in the management and disposition of any funds or property of the corporation at any time in his charge or possession.
2. Compel any such officer to pay to such corporation or to its representative all funds, and the value of all property acquired and held, or transferred to others, or lost, wasted, or damaged, in violation of official duty.
3. Suspend any such officer whenever it appears that he has violated his trust.
4. Remove any such officer upon conviction or satisfactory proof of gross misconduct.
5. Cause an election to be held to fill any vacancy created by such removal, when deemed necessary, in which case it shall appoint a disinterested person to conduct the same under its direction, and, in case of suspension or removal of a majority of the managing board, it may appoint a temporary receiver to act until such suspension shall terminate in the one case, and in the other until the vacancies shall have been filled by new officers duly elected and qualified.
6. Set aside any unauthorized or unlawful alienation of property made by any officer thereof whenever satisfied that the alienee knew or had reasonable cause to believe that such conveyance was unauthorized or illegal.
7. Restrain and prevent any such alienation, threatened or intended.
8. Cause a meeting of its managing board, stockholders, or members to be held when deemed necessary

for the preservation of its property or protection of its interests.

Provided, that nothing in this section contained shall be construed to impair any visitatorial power or authority over any corporation vested by law in any corporate body or public officer. (3171) [6632]

61-375, 384, 63+1079; 66-437, 439, 69+324.
Subd. 8 cited (109-168, 123+417; 122-81, 141+1111).

8012. Appeal—Effect of—An appeal from an order or judgment removing an officer or trustee, under § 8011, shall not operate to stay its effect or any proceeding under it; but the term of office of any officer, director, or trustee elected thereunder to fill a vacancy, or of any receiver appointed, shall be terminated by a reversal or vacation of such order of judgment. (3172) [6633]

8013. Sequestration—Receiver—Distribution—Upon complaint of a person obtaining judgment against a corporation or his representatives, made after the return unsatisfied of an execution issued thereon, the Court may sequester the stock, property, things in action and effects of such corporation, and appoint a receiver of the same, and upon final judgment upon any such complaint the Court shall order the property remaining, or the proceeds thereof, to be disposed of under its direction, proportionately in the following order:

1. In payment of the costs and expenses of the receivership.

2. Debts due the United States and the State of Minnesota if any.

3. Taxes and assessments, if any.

4. Claims duly proved and allowed of employees sustaining injury in the course of their employment and entitled to compensation under the provisions of part II, Chapter 23-A, General Statutes 1923, provided that claims under this subdivision of this section shall not be allowed if the corporation carried workmen's compensation insurance as provided by law at the time the injury was sustained.

5. Claims duly proved and allowed of clerks, servants or laborers for services performed within three months preceding the appointment of the receiver if any.

6. Other claims duly proved and allowed.

After payment of the expenses of receivership and claims of creditors duly proved, the remainder, if any there be, shall be distributed pro rata among the stockholders proving themselves entitled thereto. (3173) [6634] (Amended '25, c. 224)

210+59; 212+911.

1. Subdivision generally—History (48-158, 50+1114; 66-378, 69+144). To be construed liberally (83-71, 73, 85+931). All its provisions are to be harmonized so far as possible (60-355, 62+399). All its provisions are applicable to all corporations except where expressly limited (25-543, 555; 48-158, 168, 50+1114; 61-510, 513, 63+1109). Remedies afforded by this subdivision for the enforcement of the constitutional liability of stockholders exclusive (25-543; 30-173, 176, 14+799; 56-420, 423, 57+1065; 61-373, 63+1024; 116-285, 133+801).

2. Who may maintain action—The plaintiff must be a judgment creditor who has exhausted his legal remedies by having an execution returned unsatisfied (60-355, 62+399), or the assignee of such a creditor (83-71, 85+931). Prior to the revision it was held that under certain circumstances a simple contract creditor might maintain an action to enforce the liability of stockholders (66-378, 69+144; 66-437, 69+324). The omission of G. S. 1894 § 5905 from the revision and the adoption of 1899 c. 272 apparently overrule these cases. A stockholder or director who is also a creditor may bring an action to enforce liability of stockholders but the court may turn the management of the case over to another person (70-334, 73+173; 72-312, 75+232; 79-488, 82+984). Special rules apply to an action under § 8021.

3. Parties defendant—The plaintiff may in the first instance make the corporation the sole defendant, but the ordinary and correct practice is to make all the

stockholders defendants at the outset (44-409, 412, 46+851; 61-359, 361, 63+1063; 65-90, 95, 67+893). All the stockholders within the jurisdiction of the court should be made defendants (25-543, 556; 58-16, 19, 59+632; 73-454, 76+254). An ancillary action may be maintained against defendants omitted in the original action (73-454, 76+254). If the original plaintiff does not make the stockholders defendants at the outset he may do so later by means of an amended or supplemental complaint (65-90, 95, 67+893). If he does so other creditors cannot file supplemental complaints (64-386, 67+217; 70-334, 73+173). If the original plaintiff does not make the stockholders defendants for the purpose of enforcing their liability it may be done on leave of court by other creditors (44-409, 46+851; 48-158, 50+1114; 61-359, 63+1068; 64-386, 67+217; 65-90, 67+893). Stockholders may be made parties either before or after the time limited for filing claims (61-359, 63+1068).

4. What will prevent or defeat action—After an assignment for the benefit of creditors under the assignment law of 1876 or the insolvency law of 1881 creditors cannot have a receiver appointed as of right (58-434, 59+1077; 62-501, 65+78, 632). A receivership in an action to foreclose a mortgage will not prevent a receivership hereunder (53-129, 54+1064), nor will an action by a creditor to set aside a fraudulent transfer of corporate assets (60-82, 61+902). A proceeding hereunder will not be defeated by a subsequent assignment under the insolvency law of 1881 (55-139, 56+575; 84-144, 151, 86+872), nor by an action by the attorney general for the forfeiture of the corporation's charter (67-506, 70+803).

5. Right of creditors to recover corporate assets—After a receiver has been appointed a creditor cannot maintain an action for the recovery of corporate assets (35-543, 546, 29+349; 44-37, 40, 46+310; 48-361, 51+119).

6. Appointment of receiver—How far discretionary (65-139, 56+575). Not subject to collateral attack (64-133, 66+266).

7. Judgment on which action based—How far conclusive on corporation and stockholders (65-249, 68+15; 65-324, 68+50; 72-312, 315, 75+232; 80-32, 82+1088). Against corporation and others sufficient (57-325, 59+308).

8. Return of sheriff—How far conclusive (44-401, 46+848).

9. General nature of action—The object of the action is to wind up the affairs of the corporation; to collect and convert all the corporate assets, appropriating them ratably among all the creditors; and, if there is a deficiency of assets to enforce the individual liability of stockholders and others to the extent of such deficiency. Rules of equity practice are to be applied when not inconsistent with the statute. The proceedings are exceedingly flexible and susceptible of being molded into almost any form necessary to accomplish their purpose of securing a full and final adjustment of the rights and liabilities of all parties growing out of the corporate business (25-543, 556; 34-323, 327, 25+639; 35-543, 546, 29+349; 44-37, 39, 46+310; 44-409, 412, 46+851; 47-464, 50+601; 56-180, 184, 57+468; 68-95, 99, 70+869; 72-312, 315, 75+232; 73-454, 461, 76+254). The proceeding is under the control of the court and not of the original plaintiff. After it is begun and the complaint filed it is no more that of the plaintiff than it is of any other creditor who appears, files a claim and thus takes part in the litigation. The court may at any time designate which creditor shall have general management of the proceeding (70-334, 338, 73+173; 72-312, 313, 75+232). A creditor cannot maintain the action solely for his own benefit. Whether the original complaint so states or not the action is in behalf of all creditors who may come in (25-543, 556; 35-543, 546; 29+349; 47-464, 466, 50+601; 61-359, 361, 63+1068; 64-386, 388, 67+217; 73-454, 461, 76+254; 79-297, 298, 82+639). The action is in the nature of insolvency proceedings (37-82, 83, 33+117; 47-464, 466, 50+601). The sequestration is in the nature of an attachment or execution on behalf of the creditors (35-543, 546, 29+349; 44-37, 39, 46+310). Controverted questions of fact may be submitted to jury (103-129, 114+651). The court initiating insolvency proceedings by appointment of receiver or assignee retains exclusive jurisdiction thereof and of receiver or assignee for all purposes of adjusting and of receiver or assignee all conflicting interests, and all matters arising out of or connected with the estate, including settlement of accounts of receiver, and surcharging the same on account of losses occurring by reason of his negligence or mismanagement (103-129, 114+651).

10. Enforcement of stockholder's liability incidental—The proceeding to ascertain and enforce the liability of stockholders is not an independent action but a step in the original action against the insolvent corporation for the sequestration of its property and the appointment of a receiver (48-174, 190, 50+1117; 65-90, 97, 67+893; 70-349, 352, 73+169; 48-174, 190, 50+1117). Sections 8025-8031 merely regulate the practice in an action or proceeding already begun. They do not authorize an independent action (see 80-125, 133, 83+36). G. S. 1894 § 5905, which authorized an independent action, is omitted from the revision. The liability of stockholders is not a corporate asset and can only be enforced for the benefit of credi-

tors and then only to the extent of paying the corporate debts remaining unpaid after the corporate assets have been exhausted (74-354, 362, 77+234, 407, 968). The court in exercise of its equitable powers will enforce liability of stockholders (116-285, 133+801).

11. What liabilities enforceable.—Under this section there may be enforced the liability of stockholders under the constitution (see § 8025); for bonus stock (48-174, 50+1117). See 70-321, 73+189; for stock fraudulently issued at a grossly inadequate price (68-95, 70+869); on unpaid stock subscriptions (47-464, 50+601. See 64-133, 66+266); on stock received for over-valued property (65-28, 67+652); on a guaranty of corporate bonds (77-329, 335, 79+1010); of directors for capital wrongfully withdrawn (44-37, 46+310); of a transferrer of stock (62-152, 64+145); of directors for unauthorized debts (84-408, 87+1016). The liability of stockholders under § 6178 subd. 3 cannot be enforced (66-437, 69+324). Action in nature of creditors' bill under this section to reach unpaid stock subscriptions by resident stockholders of foreign corporation, may be maintained in this state. Complaint sufficient, save for defect of parties plaintiff or defendant, and such defect, not having been objected to by demurrer or answer, was waived (139+606).

Stockholder's liability 158-106, 196+933.

12. Powers and duties of receiver.—Substantially the same as those of an assignee in bankruptcy or a receiver on a creditor's bill or in supplementary proceedings. He succeeds to the rights of both the creditors and the corporation. Everything becomes assets in his hands, and hence in the custody of the law, which were assets as to creditors, as well as what were assets as to the corporation (35-543, 546, 29+349; 44-37, 39, 46+310; 53-129, 132, 54+1064). Nature of his interest in corporate property defined (41-150, 152, 42+865; 69-131, 134, 72+60). Duties administrative or executive. Not required to perform legal services though he happens to be an attorney. Authority to employ counsel (72-320, 75+378). Cannot allow or disallow claims (71-190, 193, 73+856; 72-266, 280, 75+380). Duty to contest improper claims (63-308, 311, 71+274). Duty to file claims presented (84-217, 220, 37+604). He is a trustee of an express trust and should bring actions in his own name as such receiver (70-349, 355, 73+169). He has authority to enforce stockholders' liability to recover on undertaking entered into by him in violation of an order of court (62-46, 64+84); to recover unpaid stock subscriptions (60-481, 62+817; 64-133, 66+266); to avoid unfiled chattel mortgages (35-543, 29+349); to recover capital wrongfully withdrawn (44-37, 46+310); to avoid a fraudulent mortgage to directors (80-492, 83+418); to avoid a fraudulent judgment (87-52, 91+269); and to enforce the liabilities mentioned in note 11. Prior to 1897 c. 341, 1899 c. 272, it was held that he could not enforce stockholders' liability by action in another state (188 U. S. 56, 23 Sup. Ct. Rep. 244, 47 L. Ed. 380; 189 U. S. 335, 23 Sup. Ct. Rep. 558, 47 L. Ed. 839).

The receiver not being appointed under chapter 90, G. S. 1913, the limitations placed upon the fees therein of a receiver and his attorneys (section §350, G. S. 1913) do not apply. The court could therefore allow what the services were reasonably worth, and the evidence shows the fees fixed by the court to be the reasonable value thereof. 158-256, 197+487.

13. Pleadings.—Complaint under § 8013 held insufficient (62-501, 506, 64+73, 632). Cross-bill by creditor filing claim (64-386, 67+217). Supplemental complaint under § 8013 to charge stockholders (64-386, 67+217; 70-334, 73+173; 70-358, 73+171). Complaint to charge stockholders held not demurrable for defect of parties (72-312, 75+232). Defect of parties waived by failure to demur or answer (44-409, 46+851; 46-54, 48+528, 681; 66-487, 507, 69+610, 1069). Defect of parties not appearing on face of complaint not a ground for demurrer. That plaintiff is a stockholder is not a ground for demurrer (72-312, 75+232). Complaint in action for unpaid stock subscription held insufficient (58-247, 59+1016). Complaint in action to recover for bonus stock held sufficient (48-174, 50+1117). Counterclaims and setoffs (74-354, 362, 77+234, 407, 968; 75-138, 77+788; 76-328, 79+313; 113 Fed. 670; 126 Fed. 429).

14. Joinder of actions.—66-437, 69+324; 68-95, 70+869.

15. Defences.—Estoppel.—60-82, 61+902; 64-133, 66+266; 67-194, 69+810; 70-292, 73+149; 77-110, 79+606; 77-329, 79+1010; 90-282, 96+85; 95-206, 103+1032.

16. Assessment.—Cannot reduce extent of constitutional liability (58-167, 59+997). Proportionate when all stockholders not joined (58-16, 59+632).

17. Allowance of claims.—It is for the court and not the receiver to allow and disallow claims (71-190, 193, 73+856; 71-497, 503, 74+287; 72-266, 280, 75+380). Proceeding by way of motion and order to show cause for allowance of claim held not to bar action on judgment (82-423, 85+156). Judgment on default against corporation after appointment of receiver held not allowable as a claim (68-308, 71+274). Claim on indorsement of note by insolvent allowable without surrender of note (71-497, 74+287). Scope of review on appeal from disallowance (63-393, 65+626). State a preferred creditor (64-400, 67+212).

18. Miscellaneous.—Right to levy on judgment against insolvent (52-417, 54+372). Right to attach property of stockholders (80-354, 83+1118). Substitution of legatees and devisees of deceased stockholder (80-432, 83+377. See 75-138, 77+788). Compromise of stockholder's liability not binding on non-assenting creditor (74-175, 77+31). Compensation of creditor and attorney prosecuting action for benefit of all creditors (79-297, 82+639. See 74-405, 77+219). Liability of estate of deceased stockholder (56-420, 57+1065). Duty of court to supervise and scrutinize trust account (72-320, 75+378). Fees of attorney for receiver (72-320, 75+378). Distribution of fund among creditors (72-266, 75+380). Statute of limitations (62-152, 64+145; 66-487, 69+610, 1069; 84-144, 86+873; 92-423, 100+222; 103-392, 115+207). Consolidation of separate actions (64-386, 67+217). No redemption from receiver's sale (41-150, 42+862). Interest on stockholder's liability runs from filing of findings of court (72-266, 281, 75+380). Effect of receivership on corporate property (69-131, 135, 72+60). Findings (46-491, 49+252; 66-413, 69+217). Appeals (41-256, 43+180; 51-108, 113, 52+1081. See 60-82, 88, 61+902).

19. Judgment.—Form and extent (66-487, 69+610, 1069; 72-266, 282, 75+380). Against part of the stockholders does not release the others. In action against omitted stockholders judgment in original action conclusive (73-454, 76+254). Amendment on appeal (75-441, 78+12). Extent of on default (47-464, 50+601). Interest should be allowed on liability from time of filing findings (72-266, 281, 75+380). Creditors appearing cannot attack collaterally (51-108, 52+1081). Modification (79-226, 81+1057).

Property of a foreign corporation within the state may be sequestrated and a receiver appointed (136-93, 161+401). In sequestration proceeding stockholder may assail the judgment for fraud or collusion (138-446, 165+274). Whether certain creditors are entitled to share in the distribution of funds derived from statutory liability of stockholders (139-120, 165+967; 141-398, 170+345). A corporation cannot defeat appointment of a receiver by paying judgment of plaintiff where judgment creditor after return of execution unsatisfied sequestrates assets (146-287, 178+744; 146-344, 178+818). Sequestration proceedings to set aside conveyance to wife (147-319, 180+235). Petition by one having no interest in the property for receiver in sequestration proceeding (153-373, 190+484; 154-211, 191+691). Statutes contemplate a plenary suit (155-97, 192+362).

8014. Forfeiture of rights.—Dissolution.—Whenever any railway company doing business in this state shall charge, demand, or receive unreasonable rates for the transportation of freight or passengers, or when any corporation remains insolvent, neglects or refuses to discharge its notes or other evidences of debt, or suspends its lawful business for one year, or fails to dispose of all its property, with or without payment of all its debts, within the time allowed by law for the liquidation of its affairs, or whenever any corporation shall violate any provision of its articles or certificate of incorporation or any law obligatory upon it, such corporation shall forfeit all its rights, privileges, and franchises, and be adjudged to be dissolved. The attorney general shall make complaint against any corporation which shall in any manner violate any provision of this section or commit any act herein recited, and if upon trial it is found to have committed any such acts the court shall render judgment of forfeiture and dissolution of the corporation. Upon the trial of any action against a railway company for charging, demanding, or receiving unreasonable rates for transportation of freight or passengers, the court or jury shall find specially as to the truth of such allegations. (3174) [6635]

36-246, 30+816; 68-500, 505, 71+691.

8015. Dissolution on petition of corporation.—A majority in number or interest of the members of a corporation, desiring to close their concerns and dissolve the corporation, may present a petition to the district court in the county of its principal place of business, setting forth the name of the corporation; when and by or under what law it was incorporated; the names and addresses of the bondholders, stockholders, or members, the amount of the authorized capital stock, and the amount of capital stock actually paid in; and

if not then transacting business when it ceased so to do; the amount of its indebtedness; the amount and character of its personal property; and the amount and description of its real estate. It shall also state the grounds upon which dissolution is sought and the interest of the petitioner and p[r]ay for proper relief; provided, however, that when any corporation now or hereafter organized under any law of this state having capital stock actually paid in exceeding the sum of forty thousand dollars and has heretofore or shall hereafter continue in the business for which it was incorporated for more than three years and in the carrying out of such business has sustained losses whereby the capital stock so paid in has become impaired so as to be worth at least twenty-five per cent less than its par value, then and in any such case, the district court shall have power and is hereby given power to dissolve any such corporation upon petition of stockholders owning not less than forty per cent of such capital stock so paid in; provided, that such stockholder so petitioning shall have paid the full value of their stock. (R. L. § 3175, amended '09 c. 276 § 1) [6636]

44-460, 47-151; 56-171, 57-463; 56-180, 57-468; 60-284, 62-332; 66-378, 384, 69-144; 73-319, 76-59; 74-98, 102, 76-1024. Applies to stock corporations and to certain corporations without capital stock. Petition may be by majority of members of a nonstock corporation, or by holder or holders of majority of stock of stock corporation (99-475, 109-1116).

8016. Hearing—Notice—Upon the presentation of such petition, the court shall fix a time and place for hearing thereon, and order three weeks' published notice thereof to be given, and such other notice to parties interested as it may deem proper. At the time and place so fixed the court shall hear the allegations and evidence of all parties interested, and, if any of the grounds specified in the petition is sustained, shall adjudge the corporation dissolved, and appoint a receiver to close its affairs. (3176) [6637]

8017. Procedure pertaining to dissolution of corporations—Upon the presentation of such petition, the court shall fix a time and place for hearing thereon and order three weeks' published notice thereof to be given and such other notice to parties interested as it may deem proper. At the time and place so fixed the court shall hear the allegations and evidence of all parties interested, and, if any of the grounds specified in the petition is sustained, shall adjudge the corporation dissolved and appoint a receiver to close its affairs.

A certified copy of the order or judgment of dissolution shall be filed for record with the secretary of state and thereafter with the register of deeds of the county of the principal place of business of said corporation and the dissolution of said corporation shall not be deemed complete until such copy is so filed for record. (R. L. '05 § 3176, G. S. '13 § 6637, amended '17 c. 383 § 1)

8018. State interested, proceedings—Whenever, in any action or proceeding to dissolve a corporation, it shall appear at any stage of the proceedings that the state is or is likely to be interested therein, or that it is a matter of general public interest, the court shall order that a copy of the complaint or petition be served upon the attorney general in the manner of serving a summons in a civil action; and the attorney general shall intervene in any such proceeding when in his opinion the public interest requires it, whether so notified or not. (3177) [6638]

8019. Appointment of receiver—Duties—In any action or proceeding to dissolve a corporation, the court at any time before judgment, or within three years

after judgment of dissolution, may appoint a receiver to take charge of its estate and effects, and to collect the debts and property due and belonging to it, with power to prosecute and defend actions in its name or otherwise, to appoint agents under him, and do all other acts necessary to the final settlement of the unfinished business of the corporation which it might do if in being. The power of such receiver shall continue so long as the court deems necessary for said purposes. Such receiver shall pay all debts due from the corporation, if the funds in his hands are sufficient therefor, and, if not, shall distribute the same ratably among the creditors who prove their debts, in the manner directed by the court; and, if there be any balance after the payment of the debts, he shall distribute and pay the same to and among those who are justly entitled thereto, as having been stockholders or members. Every receiver appointed under the provisions of this chapter shall give bond in such amount as the court shall require, with sureties approved by it. (3178) [6639]

56-180, 183, 57-468; 60-284, 289, 62-332, 210-59.

In this action, brought by a corporation to recover money and property alleged to be retained or converted by its president, the appellant, a receiver was appointed for plaintiff in its motion and appellant was directed to turn over property and money in his hands to the receiver. There is no claim of insolvency on the part of the corporation, no shares of stock have been issued or subscribed for, no valid agreement for the acquisition of the money or property in appellant's hands is shown, and its right to any recovery at all appears doubtful. Held, on the showing made the court erred in appointing a receiver. 157-224, 195-922.

As the representative of the creditors of the corporation, a receiver may enforce their rights against stockholders, and appeal from an order disposing of money in his custody, if there are corporate creditors whose rights are prejudiced thereby. 210-38.

8020. Insolvent banks and insurance companies—Whenever any insurance company or any corporation having banking powers, or the power to make loans on pledges or deposits, becomes insolvent or unable to pay its debts, or neglects or refuses to pay its notes or evidences of debt on demand, or violates any provision of the act under which it was incorporated, or of any other law obligatory upon it, the court may by injunction restrain it and its officers from exercising any of its corporate rights, privileges, and franchises, and from collecting or receiving any debts or demands, and from paying out or in any way transferring or delivering to any person any of its moneys, property, or effects, until otherwise ordered by the court (3179) [6640]

Applicable to a building and loan association (64-349, 67-1); to an insurance company on the co-operative or assessment plan (49-158, 51-908). A building and loan association held not "insolvent" (73-203, 215, 75-1116). Effect of injunction on bank (74-98, 103, 76-1024). Cited (61-510, 513, 63-1109; 66-437, 440, 69-324; 66-437, 496, 69-610, 1069).

8021. Forfeiture of charter—Receiver—Suit by creditor—Such injunction may be issued on the complaint of the attorney general in behalf of the state, or of any creditor or stockholder of the corporation. Whenever it issues against a bank for any violation of its charter, on complaint of a creditor, the court shall proceed to final judgment, and if the proof be sufficient adjudge a forfeiture, notwithstanding such creditor may settle with the corporation and relinquish his claim against it. In such cases the attorney general or a creditor may appear and prosecute the action, which shall not be discontinued if either of them so appears and prosecutes the same. At any stage of the proceedings the court may appoint one or more receivers to take charge of the property and effects of such corporation. If such injunction be upon applica-

tion of a creditor of a corporation whose directors or stockholders are liable by law for the payment of such debts in any event or contingency, such directors or stockholders or any of them may be made parties to the action, either at the time of filing the complaint or at any subsequent time when it becomes necessary to enforce such liability. (3180) [6641]

Simple contract creditor may maintain action to sequester assets and enforce stockholder's liability (60-355, 62+399; 64-400, 401, 67+212; 65-139, 67+800; 66-378, 69-144). Appointment of receiver how far discretionary (55-139, 56+575). If a creditor institutes proceedings but takes no steps to enforce the stockholder's liability another creditor may be allowed to intervene for that purpose (65-90, 67+893). Discretionary power of attorney general to bring action (64-349, 67+1). Creditor may maintain separate action to enforce stockholder's liability during pendency of action by attorney general for forfeiture of charter or with leave of attorney general may intervene in the latter action for that purpose (67-506, 70+803). Sale by receiver for inadequate price held properly set aside (68-468, 71+671). Repudiation of lease by receiver. Claim of lessor for damages (74-98, 76+1024). State a preferred creditor (64-400, 67+212). Duty of court to adjudge a forfeiture (74-98, 103, 76+1024). Independent action cannot be maintained against receiver on claim which might be filed under § 8023 (71-190, 73+856). Modification of judgment (79-226, 81+1057). Enforcement of stockholder's liability (25-543; 65-90, 67+893; 72-266, 75+380).

8022. Unpaid stock subscription, etc.—Whenever the property of any corporation is insufficient to pay its debts, upon application of a creditor the court shall order the payment of each stockholder of the amount, if any, unpaid on the shares held by him, or such portion thereof as may be necessary to satisfy the corporate debts, and when necessary may direct the receiver to enforce such order by appropriate proceedings; and on application of a stockholder the court may make such order as will equalize the payments made by stockholders for their stock, and in like manner the court may enforce any liability of directors and officers. (3181) [6642]

46-491, 494, 49+252; 68-95, 99, 70+869. The receiver of a corporation may sell notes representing unpaid stock subscriptions and pass to the purchaser whatever title he has. If in a given case the makers of such notes cannot rescind the same as against the receiver, they cannot do so as against a purchaser from him. 156-487, 195+489.

When a stockholder has the right to rescind his stock subscription for fraud, he is not prejudiced because instead of rescinding by his own act, he commences a suit for rescission. Such an action is a repudiation of the contract, and the rights of the parties are to be determined as of the date of its commencement. 156-487, 195+489.

Where the receiver of an insolvent corporation sues the holder of its shares of stock to recover the unpaid part of the par value, the burden is upon the receiver to prove the amount thereof. 167-113, 208+645.

If it appears that a prior holder of the shares paid full par value to the corporation, the holder sued is not liable, even though he received it as a bonus for purchasing and paying the full par value for certain shares of an original issue. 167-113, 208+645.

8023. Order limiting time to present claims—Extension—The court, upon adjudication of dissolution, shall therein limit the time in which creditors may present claims against the corporation, which shall not be less than six months nor more than one year from its date, and fix the time and place when and where it will examine and adjust the same. No claim or demand shall be received or allowed after the expiration of the time so limited, except by permission of the court for good cause shown, and upon notice to the receiver, but in no case unless presented within eighteen months from the date of adjudication and before final settlement. (3182) [6643]

Discretion in allowing creditor to come in after time limited (48-313, 51+377; 69-176, 71+928; 75-236, 77+967; 92-399, 100+100). Order not subject to collateral attack. Order improperly made in one action sustained in another (60-82, 61+902). Cited (67-506, 508, 70+803; 70-334, 337, 73+173; 84-217, 218, 87+604).

Orders, made under the statute, allowing claims against an insolvent corporation and assessing its stockholders are final and do not authorize or require the entry of judgment thereon. They must be appealed from, if at all, within 30 days from notice. 210+628.

8024. Notice of hearing—Three weeks' published notice of such order of hearing shall be given, which shall require all creditors to present their claims, duly verified, within the time limited, or be precluded from participation in any distribution of corporate property thereafter made. (3183) [6644]

Claims filed are deemed controverted without an answer or reply and must be proved on the hearing unless expressly admitted (64-386, 388, 67+217; 66-361, 368, 69-317; 76-328, 331, 79+313). If claimant desires other relief than the allowance of his claim and such as cannot be had under the original complaint he must apply for leave to file a cross-bill (64-386, 67+217). Filing claim exclusive remedy. Claimant cannot maintain an independent action on claim against receiver (71-190, 73+856). Duty of receiver to file claims presented to him (84-217, 220, 87+604). Presentation of claim not a cross-complaint (47-464, 466, 50+601). Creditors filing claims are parties without any formal order (65-90, 99, 67+893), and are bound by the judgment (51-108, 112, 52+1081). Creditors not filing claims cannot share in proceeds of estate. Creditor filing claims may contest claims of other creditors (68-308, 311, 71+274; 71-190, 193, 73+856).

Orders, made under the statute, allowing claims against an insolvent corporation and assessing its stockholders are final and do not authorize or require the entry of judgment thereon. They must be appealed from, if at all, within 30 days from notice. 210+628.

8025. Enforcement of stockholders' liability—Hearing—Notice of—Whenever it shall be made to appear by the petition of a receiver or assignee of a corporation, or of any creditor thereof whose claim has been filed, that any constitutional, statutory, or other liability of stockholders or directors or both exists, and that it is necessary to resort to the same, the court shall appoint a time for hearing, not less than thirty nor more than sixty days thereafter, and order such notice thereof to be served on each person against whom such liability is claimed in the same manner a summons is served in a civil action, and said notice shall also be published as the Court shall order. That such notice shall specify in a general way the nature of the liability claimed in the petition and the amount thereof against the person upon whom it is so served. Whenever the receiver is not the petitioner, personal notice shall be given to him. (3184) [6645] (Amended '25, c. 273, § 1)

1899 c. 272 did not repeal 1897 c. 341. The latter act, which is repealed by the revision, made it the duty of receivers and assignees to enforce the liability of stockholders (86-42, 90+119). Prior to 1897 c. 341 they had no authority to do so (66-441, 69+331). 1899 c. 272 is a supplementary practice act formulated after the practice followed in this state for the collection of unpaid stock subscriptions when insolvency has ensued (80-125, 133, 83+36). Sections 6645-6647 are constitutional (80-125, 83+36; 84-144, 150, 86+872). Held applicable to proceedings begun prior to its enactment (84-217, 87+604). Contractual obligations arising out of G. S. 1894 c. 76, adopted to enforce liability of stockholders prescribed by Const. art. 10 § 3, are not impaired by 1899, c. 272, enacted to make remedy more effectual, because, while under old law stockholders who could not be reached by personal service were immune from liability, under new law they need not necessarily be served with process in action in which assessment is made, or because expenses incident to enforcement of liability in other states and against other parties are taken into consideration in estimating amount of assessment. Due process of law is not denied stockholder in domestic corporation by 1899 c. 272, because stockholders need not necessarily be served with process in action in which assessment is made (206 U. S. 516, 27 Sup. Ct. 755. See 195 Fed. 153).

1899 c. 272 did not repeal G. S. 1878 c. 76 §§ 16, 17. It merely provided a cumulative remedy for the enforcement of superadded statutory liability of stockholders. The two remedies being concurrent, statute of limitations commenced to run against cause of action at time when either remedy became available for enforcement of cause of action. Revised Laws did repeal G. S. 1878 c. 76 §§ 16, 17 (100-436, 111+387, 112+862; 100-548, 111+388). Validity of assessment is not affected as to particular

nonresident stockholder by fact that he died before assessment was made, nor because notice was addressed to him, and not to his executor (191 Fed. 823, 112 C. C. A. 337). If impossible to enforce liability under statutory procedure, court will, in exercise of its general equity powers, give to creditors adequate remedy in action in equity, and may appoint receiver and authorize him to enforce liability (116-285, 133+801). Merely cited as basis of proceedings (79-414, 82+673; 87-473, 474, 92+403; 90-144, 145, 95+767; 90-172, 174, 95+1110; 90-282, 283, 96+85; 91-96, 97, 97+574; 92-399, 100+100; 95-206, 103+1032; 107-491, 120+1086). See 126 Fed. 429.

To enforce stockholder's liability, it must appear stock was actually issued or that members were entitled to have same issued (115-43, 131+856). Stockholders not released from constitutional liability by discharge of corporation in bankruptcy (116-285, 133+801). Liability of holder of corporate stock as collateral security (127-346, 149+462). No jury trial; evidence by affidavit (132-9, 155+754). Sale and transfer is no release. Stockholder secondarily liable to transferee, and both secondarily as to that of corporation (135-339, 160+1014). Date cause of action accrues to enforce liability (136-112, 161+498). Acquiescence in ultra vires transaction (136-112, 161+713). Assessment under invalid appointment of receiver (141-393, 170+343; 154-213, 191+601).

213+36; 157-209, 195+923, note under § 8026; 212+587, note under Const. Art. 10, § 3.

Although a stockholder was induced to enter into a contract for the purchase of stock by reason of false and fraudulent representations on the part of the officers of the corporation, if he was not diligent in discovering the fraud and repudiating the transaction before the corporation became insolvent and proceedings were commenced to sequester its property for the benefit of creditors, it is then too late to avoid the contract. 156-323, 194+641.

One who has been a stockholder for a considerable time cannot avoid liability, on the ground that he was induced to purchase the stock by fraud on the part of the corporation, where he failed to discover and assert the fraud while the corporation was a going concern. 157-478, 196+659.

When the residue of the indebtedness of a corporation, to be collected by assessment on the secondary liability of stockholders, is less than the charter limitation, stockholders cannot resist an assessment pro tanto because the assets of the corporation have been used to pay indebtedness in excess of the charter maximum. 157-482, 196+654.

The order of assessment is a final and conclusive adjudication that the corporation is one in which its stockholders are subject to the liability prescribed in section 3, art. 10, of the Constitution. 158-106, 196+939.

In an assessment proceeding the court determines whether the character of the corporation is such that its stock is assessable under the provision of the Constitution; that is, whether it is one of the corporations excepted by the constitution from liability, its determination of the character of the corporation is binding in subsequent actions. 160-64, 199+436.

The finding of the court that the defendant transferred stock to another as his agent for purposes of sale, and that he continued to be the real owner, is sustained by the evidence; and in such case his liability as stockholder continued. 163-83, 203+456.

A stockholder cannot defend against an assessment on his constitutional liability, on the ground that his stock was sold to him in violation of the "Blue Sky" Law. 164-305, 204+941.

Evidence considered, and held sufficient to support an order refusing to grant an order assessing stockholders of a corporation for secondary liability until some attempt has been made by the receiver to recover the subscription price of stock, apparently issued, which has not been paid. 167-20, 208+424.

That the stockholders are liable individually only to the amount of the indebtedness lawfully contracted, not exceeding par value of stock held by them, and are not liable for the expenses of the receivership in addition thereto. 167-238, 208+959.

There were irregularities in the increase of stock The defendant bought stock issued on the increase, and received benefits accruing therefrom. It is held that he is liable thereon as a stockholder. 210+29.

Defendant was not relieved because property of corporation was by arrangement between the corporation and the creditors taken into possession by a so-called committee of creditors, and the business continued at a loss. 210+29.

A stockholder is not relieved of double liability because assets exceed charter limit of indebtedness. 210+29.

Article fixed the debt limit at an amount not exceeding the capital stock. It is held that the limit of indebtedness increased with the increase of stock. 210+29.

Section 8779, Rev. Code S. D. 1919, held declaratory of the common-law rule that, when a subscriber in good faith makes a legally complete transfer of stock which has not been fully paid, he is released from further liability to corporate creditors. 210+148.

Violation of Blue Sky Law, and its effect. 212+806.

Foreign corporations. 212+911.

Some of those, who had been served personally with the notice required by chapter 273, Laws 1925, moved that the service be set aside and the proceeding dismissed because a few nonresident stockholders had been served with the notice by registered mail and the steps preliminary to the service of a summons by publication had not been taken, and because the published notice of hearing did not give the names of the stockholders or the amount of their liability. There was no error in the denial of the motion. 213+560.

8026. Same—Hearing—Evidence—Order for assessment—Upon such hearing, after proof of due service of notice, the court shall receive and consider such evidence by affidavit or otherwise as may be presented by the receiver, or by any creditor, officer, or stockholder, appearing in person or by attorney, but such evidence shall be the best available under the circumstances of each case, upon the following points:

1. The nature and probable extent of the indebtedness of the corporation;
2. The probable expense of the receivership;
3. The probable amount of available assets;
4. The parties liable as stockholders, the nature and extent of the liability of each, and their probable solvency or responsibility.

If it appears that the available assets, or such amount as may be realized therefrom within a reasonable time, will be insufficient to pay such expenses and indebtedness in full and without delay, the court shall order a ratable assessment upon all parties liable as stockholders, or upon account of any stock of such corporation, for such amount, proportion, or percentage of such liability upon or on account of each share of such stock as it shall deem proper, considering the probable solvency and responsibility of the stockholders and the probable expense of collecting such assessment, and shall direct payment of the amount so assessed against each share of such stock to the assignee or receiver, within the time specified in such order. That no assessment shall be made against any stockholder for any liability of any corporation incurred outside of the scope of the powers of such corporation, or of the officers thereof incurring the same, unless such stockholder shall have been found by the court to have consented thereto. (3185) [6646] (Amended '25, c. 272, § 1)

Constitutional. Findings of fact unnecessary (80-125, 83+36; 84-144, 150, 86+872). Order levying assessment appealable (84-144, 86+872). Facts to be considered in determining amount of assessment. Assessment held not excessive (84-144, 86+872; 84-217, 220, 87+604).

1899 c. 272 § 3 cited (99-115, 108+849).

Proceedings for assessment are summary and informal (132-9, 155+754; 153-190, 189+1027). Undecided as to assessments for constitutional or statutory liabilities against shareholders in foreign corporations, a receiver being appointed hereunder (154-211, 191+601). Extent of stockholders' liability is to be taken under consideration (154-462, 192+351).

213+36; 160-64, 199+436, note under § 8025.

In making an order for the assessment of stockholders the court must necessarily determine that the corporation is not in the excepted class and the determination of the question is conclusive as to all the stockholders. 157-209, 195+923.

If the order expressly reserves the question for future determination, the order is incomplete, and there is no assessment. 157-209, 195+923.

The receiver may have the order completed by applying to the court for a further hearing of his petition for the assessment and for the determination of the question left open when the order was made. 157-209, 195+923.

The court's jurisdiction is not exhausted when the order is entered. It continues until the receivership is at an end. 157-209, 195+923.

The purpose for which a corporation was organized must be ascertained by examining its articles of incorporation. Proof of the customary manner of conducting mining operations is not admissible to explain

or limit the declared purpose of the corporation as set forth in its articles. 157-209, 195+923.

An assessment order, invalid for the reason above stated, cannot be validated as of the date of its entry. It can only be given effect after a rehearing of the question as to whether the corporation is within the constitutional exception and a judicial determination that it is not. An amendment nunc pro tunc of the original order is not permissible, and the amendment cannot have a retroactive effect. 157-209, 195+923.

Notice to stockholders by mail as directed by the court is sufficient to give the court jurisdiction over them for the purpose of making the assessment. 157-209, 195+923.

The articles of the corporation in which appellants were stockholders did not limit it to carrying on a manufacturing or mechanical business exclusively. 157-209, 195+923.

In a proceeding to assess the stockholders of a Minnesota corporation on account of their constitutional liability, objecting stockholders may insist that the receiver make proper and sufficient proof of the grounds for an assessment. The degree and kind of proof must be left very largely to the requirements of each case and the discretion of the trial judge. 167-283, 208+997.

8027. Same—Order for assessments—Enforcement—Effect—Defenses available—Such order shall authorize and direct the assignee or receiver to collect the amount so assessed, and, on failure of any one liable to such assessment to pay the same within the time prescribed, to prosecute an action against him, whether resident or non-resident, and wherever found. Such order shall be conclusive as to all matters relating to the amount, propriety, and necessity of the assessment, against all parties therein adjudged liable upon, or on account of, any stock or shares of such corporation, whether appearing or being represented at the hearing or not, or having notice thereof or not, except that the defense of ultra vires set forth in Section 6646 may be interposed by any stockholder in any suit for any such assessment and if maintained shall diminish the liability of such stockholder in the proportion that the liabilities determined to be ultra vires shall bear to the total liabilities of such corporation. (3186) [6647] (Amended '25, c. 272, § 2)

Explanatory note—For section 6646, see § 8026, herein. Constitutional (80-125, 83+36). Order how far conclusive (80-125, 83+36; 99-115, 108+849; 191 Fed. 823, 112 C. C. A. 337; 195 Fed. 153; 193 Fed. 444). 154-461, 192+351. 160-64, 199+436, note under § 8025; 213+560, note under § 8025.

In a sequestration proceeding the court in making the assessment determines that the corporation is not one the stockholders of which are exempt from liability under the Constitution; and such determination is binding upon the stockholders in subsequent actions by the receiver to collect assessments. 163-83, 203+456.

Orders, made under the statute, allowing claims against an insolvent corporation and assessing its stockholders are final and do not authorize or require the entry of judgment thereon. They must be appealed from, if at all, within 30 days from notice. 210+628.

8028. Actions for assessments, how and where prosecuted—Upon expiration of the time specified in the order for the payment of assessments, the assignee or receiver shall commence action against every party so assessed and failing to pay, wherever he or any property subject to process in such action is found, unless he shall report to the court that he believes such stockholder to be insolvent, or that the expenses of the prosecution will probably exceed the amount likely to be collected, in which case the court, unless satisfied to the contrary, shall order action suspended as to such party. (3187) [6648]

Presentment of a claim against deceased stockholder for payment of assessment was an action, within 1899 c. 272 § 6 (99-115, 108+849). Where stockholder transferred his stock after his liability in favor of creditor had accrued, he was liable in independent action, and it was not necessary to make transferee party. If defendant desired to have him made party on ground that execution might be enforced against him in first instance because of his primary liability, application should have been made for such purpose (96-458, 105+901). A chancery receiver of a domestic corporation

upon whom, as quasi assignee and representative of creditors, is conferred by 1899 c. 272 authority to maintain action to enforce liability of stockholders, may sue in foreign jurisdiction (206 U. S. 516, 27 Sup. Ct. 755, 51 L. Ed. 1163). Such receiver may sue in a foreign jurisdiction in court having jurisdiction of parties and subject-matter (162 Fed. 767). A cause of action to enforce such liability does not accrue, so as to start the running of the six years' limitation prescribed by Code Civ. Proc. N. Y. § 382, until receiver can sue upon assessment after stockholder has failed to pay as required by order of court (206 U. S. 516, 27 Sup. Ct. 755, 51 L. Ed. 1163).

157-209, 195+923, note under § 8026.

The amended answer considered and held not to state a defense to the cause of action set forth in the complaint. 157-449, 196+563.

8029. Additional assessments, how levied—Joinder of causes—Whenever, at any time after an assessment for an amount less than the maximum stockholder's liability has been levied, it shall appear, by petition or otherwise, and after hearing as hereinbefore provided, that by reason of the insolvency of stockholders, or for any other cause, it is necessary, or for the interest of creditors, that a further assessment be levied, the court shall order the same for such amount, proportion or percentage as it may deem proper; and in the same manner, and with like effect, at any time thereafter may levy additional assessments, not exceeding in the aggregate the maximum stockholder's liability. Whenever two or more assessments shall have been levied, the assignee or receiver may recover therefor in a single action, or, unless otherwise directed, may maintain a separate action against each stockholder for each successive assessment. (3188) [6649]

157-209, 195+923, note under § 8026.

8030. Proceedings on failure of assignee or receiver to prosecute—If the assignee or receiver shall neglect to begin an action against any stockholder who has failed to pay his assessment, and is not excepted from the present operation of such order, or to diligently prosecute the same, any stockholder who has paid his assessment in full, or any creditor, may petition the court to order such assignee or receiver to prosecute such action against such delinquent stockholder, or to permit such petitioner to begin and maintain or to continue any such action already begun, in the name of such assignee or receiver, for the benefit of such estate; and if the petitioner shall furnish such security for costs and expenses as the court may direct, it shall either require the assignee or receiver to prosecute such action forthwith, or permit the petitioner to begin and prosecute, or continue the prosecution of the same. (3189) [6650]

157-209, 195+923, note under § 8026.

8031. Surplus to be divided among stockholders—Whenever, after the payment of all expenses of such assignment or receivership, and all indebtedness of and claims allowed against such corporation, any surplus money or property remains in the hands of the assignee or receiver, the same shall be equitably distributed, under the direction of the court, among the stockholders who have paid their assessments. Any stockholder who has paid his assessments, in addition to any remedy herein provided, shall be entitled to enforce contribution from any stockholder who has not paid such assessments, and for that purpose shall be subrogated to the rights of the creditors or assignee or receiver of such corporation against every such delinquent stockholder, in such manner and to such extent as may be just and equitable. (3190) [6651]

(135-342, 160+1015; 153-190, 189+1027).

157-209, 195+923, note under § 8026.

The assets of a bank in liquidation are conserved, and, if the stockholders respond to their liability, and there is at the end a surplus, it is equitably distributed. 213+36.