

(also called pinnated grouse), white breasted (also called sharp-tailed grouse), Hungarian partridge or chukar partridge may be taken and possessed only in such counties *or areas* of the State and during such times in the several counties *or areas*, between September 16th and November 30th following, both days inclusive, in any year in any county *or area* and subject to such other provisions not inconsistent with law, as the director of game and fish may by regulation from time to time prescribe so as properly to protect any of said species of game birds and prevent the undue depletion thereof, according to the conditions in the respective counties *or areas*; provided, that no new regulations or amendment of any existing regulation shall become effective in any season unless promulgated and published according to law on or before the first day of September next preceding such season. No hunter shall discharge any firearms at any game birds which are within the limits of any state trunk highway, except migratory game birds.

Sec. 2. **Law amended.**—Mason's Supplement 1940, Section 5552, is amended to read as follows:

5552. **Limit of birds taken.**—A person may take during the open season not to exceed 10 quail, and not to exceed 5 partridge or ruffed grouse, and not to exceed 4 pheasants, only one of which may be a female, and not to exceed 5 prairie chickens or pinnated grouse, white breasted or sharp-tailed grouse in one day. No person shall have more than 15 quail, 15 partridge or ruffed grouse, 12 pheasants *only 4 of which may be females* or 10 prairie chickens or sharp-tailed grouse in the aggregate of both kinds in the possession at any one time.

Approved April 24, 1943.

CHAPTER 635—H. F. No. 489.

(AMENDING SECTION 50.14 MINNESOTA STATUTES 1941.)

An act relating to uses and trusts, and amending Mason's Minnesota Statutes of 1927, Section 7714, as amended.

Be it enacted by the Legislature of the State of Minnesota:

Section 1. Property trustee authorized to acquire.—*In acquiring, investing, reinvesting, exchanging and managing property, a trustee is authorized to acquire every kind of property, real,*

personal or mixed, and every kind of investment, specifically including, but not by way of limitation, bonds, debentures and other individual or corporate obligations, and corporate stocks, which an ordinarily prudent person of discretion and intelligence, who is a trustee of the property of others, would acquire as such trustee.

Sec. 2. Shall not be compelled to dispose of property.—Unless the trust instrument or a court order specifically directs otherwise, a trustee shall not be required to dispose of any property, real, personal, or mixed, or any kind of investment, in the trust, however acquired, until the trustee shall determine in the exercise of a sound discretion that it is advisable to dispose of the same, but nothing herein contained shall excuse the trustee from the duty to exercise discretion at reasonable intervals and to determine at such times the advisability of retaining or disposing of such property.

Sec. 3. Not to alter terms of will.—Nothing contained in this Act shall be construed as authorizing any departure from or variation of the express terms or limitations set forth in any will, agreement, court order, or other instrument creating or defining the trustee's duties and powers, but the terms "authorized securities," or "authorized investments," or "legal investments," or words of similar import, as used in any such instrument or in the statutes of this state in so far as they relate to the investment of trust funds by corporate trustees or by individual trustees, shall be taken to mean every kind of property, real, personal or mixed, and every kind of investment, which a trustee is authorized to acquire under the terms of Section 1 hereof.

Sec. 4. Not to be construed to limit powers of court.—Nothing contained in this Act shall be construed as restricting the power of a court of proper jurisdiction to permit a trustee to deviate from the terms of any will, agreement, court order or other instrument relating to the acquisition, investment, reinvestment, exchange, retention, sale or management of trust property.

Sec. 5. Who are trustees.—The term "trustee" as used in this Act shall include individual trustees and corporations having trust powers and the provisions hereof shall govern trustees acting under wills, agreements, court orders and other instruments now existing or hereafter made.

Sec. 6. Law amended.—Mason's Minnesota Statutes of 1927, Section 7714, as amended by Laws of 1931, Chapter 296, Laws of 1933, Chapter 256, Laws of 1933, Chapter 307, Laws of 1933, Chapter 368, Laws of 1934, Chapter 50, Laws of 1939, Chapter 105, Laws of 1939, Chapter 141, Laws of 1939, Chapter 409, and Laws of 1941, Chapter 380, is hereby amended to read as follows:

7714. **Authorized securities.**—*Except as it relates to the investment of trust funds by corporate trustees or by individual trustees, 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 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; and in the highway revenue bonds or certificates of such states payable out of irrevocably pledged special revenues to be derived from gasoline or other motor fuel taxes or motor vehicle license fees, provided that such revenues during the most recent fiscal year of such state (next preceding the date of such investment) were equal to at least one and one quarter times the interest, principal, and sinking fund requirements of such revenue bonds or certificates during such fiscal year.

3. (a) In the bonds, certificates of indebtedness, or other interest bearing obligations, payable out of a levy of ad valorem taxes, of any city of the state of Minnesota containing over 50,000 inhabitants, or of any board of any such city, without regard to any debt limits other than those applicable to the issuance thereof;

(b) In the bonds, certificates of indebtedness or other interest bearing obligations, payable out of a levy of ad valorem taxes, of any county, city, town, village, or school, drainage or other district, or public authority, created pursuant to law for public purposes in Minnesota, provided that the net indebtedness of such county, municipality, district, or authority as net indebtedness is defined by Mason's 1927 Statutes, Section 1935, or any amendments thereof, shall not exceed ten per cent of its assessed valuation;

(c) In the bonds, certificates of indebtedness or other interest bearing obligations, payable out of a levy of ad valorem taxes, of any county, city, town, village, or school, drainage or other district, or public authority, created pursuant to law for public purposes in any state of the United States other than Minnesota, provided that the total bonded indebtedness of such county, municipality, district or authority, exclusive of revenue bonds or certificates, shall not exceed ten per cent of its assessed valuation; and provided further that if such county, municipality, district

or authority is of any state other than Iowa, Wisconsin, North Dakota, or South Dakota, it shall contain at least 3,500 inhabitants;

(d) In the bonds, certificates or other interest bearing obligations, payable out of special revenues, of any county, city, town, village, or school, drainage, or other district, or public authority, created pursuant to law for public purposes in any state of the United States, provided, however,

(aa) that if such county, municipality, district or authority is of any state other than Minnesota, it shall contain at least 3,500 inhabitants; and

(bb) that such obligations shall have been issued to finance the purpose or construction of or addition to a public enterprise furnishing water, sewer, lighting, power, gas, or road facilities, from which revenue is to be derived; and

(cc) that the governing body or other legally-constituted authority shall have covenanted or shall be required by law to establish and maintain rates to yield sufficient revenue for the payment of operating expenses, maintenance expenses, and principal and interest on such revenue obligations and to pledge such revenue irrevocably to said purposes; and

(dd) that at the date of investment such public enterprise shall have been in operation for at least three years; and

(ee) that during the preceding three fiscal years its annual net earnings, after payment of operating expenses and maintenance expenses, shall have been on the average at least one and one quarter times the average annual interest, principal and sinking fund requirements on such revenue obligations during the period from the end of its most recent fiscal year to the final maturity of such obligations.

4. (a) 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.

(b) In notes or bonds secured by mortgages or trust deed on unencumbered real estate in paragraph (a) where such notes or bonds do not exceed 60 per cent of the appraised value of the security for the same, provided that such notes or bonds are payable in installments aggregating not less than five per cent of the original principal per annum in addition to the interest; or, are payable on a regular amortization basis in equal installments, including principal and interest, such installments to be payable monthly in such amounts that the debt will be fully paid in not

to exceed 20 years if the security is non-agricultural real estate, and such installments to be payable annually or semi-annually in such amounts that the debt will be fully paid in not to exceed 25 years if the security is agricultural real estate.

(c) Not more than 50 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 hands 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 situated, 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, and in bonds and obligations of the Federal Home Loan Banks established by Act of Congress known as the Federal Home Loan Bank Act approved July 22, 1932, 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 railroad equipment trust obligations, comprising bonds, notes or certificates, which when issued are secured by new standard gauge rolling stock purchased or leased by any railroad incorporated in the United States or in Canada, or by the receiver or trustee of any such railroad, or by any corporation engaged in the business of leasing or furnishing railroad rolling stock, provided, however, that the entire issue of such obligations:

(a) Is required to be paid, in United States dollars within the United States, within fifteen years from date of issue in approximately equal annual or semi-annual installments commencing not later than three years after the date of issue, and

(b) Is of an aggregate amount not exceeding eighty per cent of the cost of the equipment securing such issue; but if issued originally in an amount which exceeded such eighty per cent, then investment in the obligations of such issue shall nevertheless be

authorized as soon as or at any time after all the unpaid obligations of such issue are reduced to or are less than fifty per cent of the cost of the equipment securing such issue.

10. In the bonds of any corporation which at the time of such investment is incorporated under the laws of the United States or any state thereof, or the District of Columbia, and transacting the business of supplying electrical energy, or artificial gas, or natural gas purchased from another corporation and supplied in substitution for or in mixture with artificial gas, for light, heat, power and other purposes, or transacting any or all of such business, provided that at least seventy-five per centum of the gross operating revenues of any such corporation are derived from such business and that not more than fifteen per centum of the gross operating revenues are derived from any one kind of business other than supplying electricity or gas or electricity and gas, and provided further that such corporation, if operating outside of Minnesota, is subject to regulation by a public service commission or public utility commissioner or other similar regulatory body duly established by the laws of the United States or the states or state in which such corporation operates, subject to the following conditions:

(a) Such corporation shall have all franchises necessary to operate in the territory in which at least seventy-five per centum of its gross income is earned, which franchises either shall be indeterminate permits or agreements with, or subject to the jurisdiction of, a public service commission or other duly constituted regulatory body, or shall extend at least five years beyond the maturity of such bonds, and such corporation shall file with the Commissioner of Banks or make public each year a statement and a report giving the income account covering the previous fiscal year and the balance sheet showing in reasonable detail the assets and liabilities at the end of such fiscal year.

(b) The book value of the outstanding capital stock of such corporation shall at the time of such investment be equal to at least two-thirds of its total funded debt.

(c) Such corporation shall have been in existence for a period of not less than eight fiscal years and at no time within such period of eight fiscal years next preceding the date of such investment shall said corporation have failed to pay promptly and regularly the matured principal and interest of all its indebtedness direct, assumed or guaranteed, but the period of life of the corporation, together with the period of life of any predecessor corporation or corporations from which a substantial portion of its property was acquired by consolidation, merger, purchase or as

a successor corporation, shall be considered together in determining the required period.

(d) For a period of five fiscal years next preceding the date of such investment the net earnings of such corporation shall have been each year not less than twice the annual interest charges on its total funded debt applicable to that period, and for such period the gross operating revenues of any such corporation shall have averaged per year not less than one million dollars.

(e) In determining the qualifications of any bond under this subdivision where a corporation shall have acquired its property or any substantial portion thereof within five years immediately preceding the date of such investment by consolidation, merger, purchase or as a successor corporation, the gross operating revenues, net earnings and interest charges of the predecessor or constituent corporations shall be consolidated and adjusted so as to ascertain whether the requirements of paragraph (d) of this subdivision have been complied with.

(f) The gross operating revenues and expenses of a corporation for the purpose of this subdivision shall be respectively the total amount earned from the operation of, and the total expense of maintaining and operating, all property owned and operated or leased and operated by such corporation, as determined by the system of accounts prescribed by the public service commission or public utility commission or other similar regulatory body having jurisdiction in the matter. The gross operating revenues and expenses, as defined above, of subsidiary companies must be included, provided that all the mortgage bonds and a controlling interest in stock or stocks of such subsidiary companies are pledged as part security for the mortgage debt of the principal corporation.

(g) The net earnings of a corporation for the purpose of this subdivision shall be the balance obtained by deducting from its gross operating revenues its operating and maintenance expenses, taxes other than federal and state income taxes, rentals, depreciation and provision for renewals and retirements of the physical assets of the corporation, and by adding to said balance its income from securities and miscellaneous sources, but not, however, to exceed fifteen per centum of said balance. The term "funded debt" shall be construed to mean all interest-bearing debt excepting therefrom unsecured obligations maturing within one year of date of issue.

(h) Such bonds must be part of an original issue of not less than one million dollars and must be mortgage bonds secured by a first or refunding mortgage secured by property owned and

operated by the corporation issuing or assuming them, or must be underlying mortgage bonds secured by property owned and operated by the corporation issuing or assuming them, provided that such bonds are to be refunded by a junior mortgage providing for their retirement and provided further that the bonds under such junior mortgage comply with the requirements of this subdivision and that such underlying mortgage either is a closed mortgage or remains open solely for the issuance of additional bonds which are to be pledged under such junior mortgage. The aggregate principal amount of bonds secured by such first or refunding mortgage plus the principal amount of all the underlying outstanding bonds shall not exceed sixty per centum of the value of the physical property owned as shown by the books of the corporation and subject to the lien of such mortgage or mortgages securing the total mortgage debt, provided that if a refunding mortgage, it must provide for the retirement on or before the date of their maturity of all bonds secured by prior liens on the property. No such savings bank shall loan upon or invest in bonds of such public utility companies in an amount exceeding in the aggregate ten per centum of its deposits and surplus, nor exceeding five per centum thereof in the bonds of any one public utility company.

11. In the bonds of any corporation which at the time of such investment is incorporated under the laws of the United States or any state thereof, or the District of Columbia, and authorized to engage, and engaging, in the business of furnishing telephone service in the United States, provided that such corporation is subject to regulation by the Interstate Commerce Commission or a public service commission or public utility commission or other similar federal or state regulatory body duly established by the laws of the United States or the states or state in which such corporation operates, subject to the following conditions:

(a) Such corporation shall have been in existence for a period of not less than eight fiscal years and at no time within such period of eight fiscal years next preceding the date of such investment shall said corporation have failed to pay promptly and regularly the matured principal and interest of all its indebtedness direct, assumed or guaranteed, but the period of life of the corporation, together with the period of life of any predecessor corporation or corporations from which a substantial portion of its property was acquired by consolidation, merger, purchase or as a successor corporation, shall be considered together in determining the required period; and such corporation shall file with the Commissioner of banks or make public in each year a statement and a report giving the income account covering the previous fiscal

year and the balance sheet showing in reasonable detail the assets and liabilities at the end of such fiscal year.

(b) The book value of the outstanding capital stock of such corporation shall at the time of such investment be equal to at least two-thirds of its total funded debt.

(c) For a period of five fiscal years next preceding the date of such investment the net earnings of such corporation shall have been each year not less than twice the annual interest charges on its total funded debt applicable to that period, and for such period, the gross operating revenues of any such corporation shall have averaged per year not less than five million dollars.

(d) In determining the qualifications of any bond under this subdivision where a corporation shall have acquired its property or any substantial portion thereof within five years immediately preceding the date of such investment by consolidation, merger, purchase or as a successor corporation, the gross operating revenues, net earnings and interest charges of the predecessor or constituent corporations shall be consolidated and adjusted so as to ascertain whether the requirements of paragraph (c) of this subdivision have been complied with.

(e) The gross operating revenues and expenses of a corporation for the purpose of this subdivision shall be respectively the total amount earned from the operation of, and the total expense of maintaining and operating, all property owned and operated or leased and operated by such corporation, as determined by the system of accounts prescribed by the Interstate Commerce Commission or the public service commission or public utility commission or other similar federal or state regulatory body having jurisdiction in the matter.

(f) The net earnings of a corporation for the purpose of this subdivision shall be the balance obtained by deducting from its gross operating revenues its operating and maintenance expenses, taxes, other than federal and state income taxes, rentals, depreciation and provision, for renewals and retirements of the physical assets of the corporation, and by adding to said balance its income from securities and miscellaneous sources, but not, however, to exceed fifteen per centum of said balance. The term "funded debt" shall be construed to mean all interest-bearing debt excepting therefrom unsecured obligations maturing within one year of date of issue.

(g) Such bonds must be a part of an original issue or of a subsequent series of bonds of the aggregate amount of not less than five million dollars, both the original issue and the subsequent

series being protected by the same mortgage provisions, and must be secured by a first or refunding mortgage, and the aggregate principal amount of bonds secured by such first or refunding mortgage plus the principal amount of all the underlying outstanding bonds shall not exceed sixty per centum of the value of the property, real and personal, owned absolutely as shown by the books of the corporation and subject to the lien of such mortgage, provided that if a refunding mortgage, it must provide for the retirement of all bonds secured by prior liens on the property. Not more than thirty-three and one-third per centum of the property constituting the specific security for such bonds may consist of stock or unsecured obligations of affiliated or other telephone companies, or both. No such savings banks shall loan upon or invest in bonds of such telephone companies in an amount exceeding in the aggregate ten per centum of its deposits and surplus, nor exceeding five per centum thereof in the bonds of any one telephone company.

12. (a) In bonds and obligations of the Federal Home Loan Banks established by Act of Congress known as the Federal Home Loan Bank Act, approved July 23, 1932, and Acts amendatory thereto, and in bonds and obligations of the Home Owners' Loan Corporation established by Act of Congress known as the Home Owners' Loan Act of 1933, and Acts amendatory thereto.

(b) Certificates of Deposits of any bank or trust company, however organized, the deposits of which are insured in whole or in part by the Federal Deposit Insurance Corporation, to the extent that such certificates of deposits are fully insured.

13. (a) The district court, upon petition of a trustee under a will or other instrument may, if the trust does not otherwise provide, authorize the trustee to invest the income or principal of the trust fund in policies of life or endowment insurance or annuity contracts, issued by a life insurance company duly authorized to transact business in the state, on the life of any beneficiary of the trust or on the life of any person in whose life such beneficiary has an insurable interest.

(b) The probate court, upon the application of a guardian, may authorize him to invest income or principal of the estate of his ward in policies of life or endowment insurance or annuity contracts, issued by a life insurance company duly authorized to transact business in the state, on the life of the ward or on the life of a person in whose life the ward has an insurable interest.

Sec. 7. **Effective July 1, 1943.**—This Act shall take effect and be in force from and after July 1, 1943.

Approved April 24, 1943.