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Containing the text of the acts of the 1941 Session of the Legislature, both new and amendatory, and notes showing repeals, together with annotations from the various courts, state and federal, and the opinions of the Attorney General, construing the constitution, statutes, charters and court rules of Minnesota together with Law Review Articles and digest of all common law decisions.

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An auctioneer residing and licensed in Wisconsin, which has no statute giving reciprocity, is permitted to secure a license in this state to make sales at auction of property other than livestock upon payment of a fee of \$25. Op. Atty. Gen. (16c), Oct. 22, 1933.

A firm or company or a family cannot be licensed as an auctioneer. Op. Atty. Gen., (16B), April 10, 1940.
A minor is not a "voter" and cannot be licensed. Id.
A corporation is not a "voter," and is not eligible for a license. Op. Atty. Gen. (16B), Nov. 20, 1940.

CHAPTER 56A

Hawkers, Peddlers, and Transient Merchants

HAWKERS AND PEDDLERS

7332. Right of municipalities, etc., to regulate.

City ordinance requiring hawkers and peddlers taking orders for future delivery to have a license and pay a tax imposed an unlawful burden upon interstate commerce, as applied to local agent with local business receiving goods from employer in another state. City of Waseca v. B., 288NW229. See Dun, Dig. 4146.

A "Green River Ordinance", making it a nuisance for solicitors or peddlers to call at private residences without having been requested or invited so to do, has been held valid by some courts and invalid by others. Op. Atty. Gen., (59a-32), Dec. 22, 1939.

Assuming but not deciding that Green River ordinances

are valid, it is a violation for a solicitor to first make a call upon home owner for purpose of obtaining an invitation, to later return and solicit an order for goods. Op. Atty. Gen., (62B), April 30, 1940.

TRANSIENT MERCHANTS

7340. Transient merchant defined.

Necessity for obtaining license by local jeweler leasing an additional building to auction off merchandise which he has shipped in from other cities where he has maintained similar stores depends upon whether business to be conducted in leased building is of a transient or temporary nature, or a part of his regular business. Op. Atty. Gen. (16B), Feb. 17, 1940.

CHAPTER 56B

Trade and Other Names

7346. Commercial business—Trade and individual names; etc.

Use by others of name and mark "Aquatennial" of Minneapolis aquatennial association, forbidden. Laws 1941, c. 202.

7352-1. Lodge and society emblems may be registered.

Act Apr. 10, 1941, c. 202, makes it a misdemeanor for anyone to use the name and mark "Aquatennial" of the Minneapolis Aquatennial Association without its permission, and provides for enjoining such use, except where the act would interfere with an established right.

CHAPTER 57

Limited Partnership

7353. Limited partnership defined.

There can be no "limited" partner, unless there actually exists a partnership, and no partnership can exist unless there be at least one "general" partner. Tatum v. A., (DC-La), 35FSupp40.

CHAPTER 57A

Partnership

PART II

NATURE OF A PARTNERSHIP

7389. Partnership defined.

A partnership with only general partners, or a limited partnership with one or more general partners may be adjudged bankrupt, independently of the partners—be they general or limited, and, conversely, a general partner, as such, may be adjudged bankrupt aside and apart from the partnership, but a limited partner unless he be individually liable for any of the partnership debts, may not, as partner, be adjudged bankrupt. Tatum v. A., (DC-La)35FSupp40.

The partnership is a distinct legal entity, separate and apart from the individuals who compose it. Id.

In action by passengers in truck owned by partnership and negligently driven by one of partners on a personal mission, surviving partner is liable where he consented to personal use of vehicle. Kangas v. W., 291NW292. See Dun, Dig. 7372.

The fact that a mortgagor and mortgagee maintained a joint bank account in which rent money collected by the mortgagor was deposited, that both parties signed and countersigned checks drawn on this account, and that to maintain the equity which he had in the property the mortgagor took care of the actual management, repairs, maintenance etc., of the property, did not constitute a partnership between the mortgagor and mortgagee. Schanerman v. L., 16Atl(2d)(NJ)551.

Pennsylvania Uniform Partnership Act. Nolan v. D., 13Atl(2d)(Pa)59.

PART III

RELATIONS OF PARTNERS TO PERSONS DEALING WITH THE PARTNERSHIP

7392. Partner agent of partnership; etc.

Negligence of one member of the joint enterprise or his contributory negligence is imputable to all other members. Ruth v. H., 296NW136. See Dun, Dig. 4949.

As to third persons, each member of a joint enterprise is agent of others, and act of one within scope of enterprise are acts of all. Id.

Where copartnership conveyed all of assets to a non-functioning corporation acquired by copartners, and later under name of another corporation of the copartners executed a lease of oil station and contract containing an agreement to pay indebtedness of copartners to lessee, any formal declarations of policy which corporation may have made in its attempt to disclaim liability cannot prevail in face of contractual admission. Range Ice & Fuel Co. v. B., 296NW407. See Dun, Dig. 2016.

Guaranty and warrant to confess judgment is not in the ordinary course of a partnership business, and where but two of three partners sign, the third is not bound except on a showing of authority from him to sign for

the firm, or laches and acquiescence amounting to authority. *Jamestown Banking Co. v. C.*, 14Atl(2d)(Pa)325.

7396. Partnership bound by partner's wrongful act.

In action by passengers in truck owned by partnership and negligently driven by one of partners on a personal mission, surviving partner is liable where he consented to personal use of vehicle. *Kangas v. W.*, 291NW292. See Dun. Dig. 5834a.

7399. Partner by estoppel.

One having reasonable cause to believe that no change had occurred in the personnel of the firm, and deals accordingly, may sue one who claims previous separation from the partnership. *Tallent v. F.*, 141SW(2d)(Tenn) 485.

7400. Liability of incoming partner.

Provision does not preclude reaching partner's personal assets to satisfy his liability on a partnership lease upon which he has received benefit of years of occupancy. *Ellingson v. W.*, 104Pac(2d)(Cal)507.

PART V

PROPERTY RIGHTS OF A PARTNER

7407. Extent of property rights of a partner.

Where partnership acquires land solely for purpose of speculation and it is not contemplated that there shall be any conveyances between the parties, equity regards it as personal property among partners and agreement of one partner to release his interest is not a contract for such an interest in lands as comes within statute of frauds. *Smith v. G.*, 144SW(2d)(TennApp)702.

7408. Nature of a partner's right in specific partnership property.

In action by passengers in truck owned by partnership and negligently driven by one of partners on a personal mission, surviving partner is liable where he consented to personal use of vehicle. *Kangas v. W.*, 291NW292. See Dun. Dig. 7370.

CHAPTER 58 Corporations

GENERAL PROVISIONS

7429. Existing corporations continued.

As affecting necessity for renewal of corporate existence of corporate for mining and smelting ores and manufacturing iron, copper and other metals, laws 1876, chapter 28, was in full force and effect in 1903. Op. Atty. Gen. (92a-9), Jan. 18, 1940.

7447. General powers.

E. Albrecht & Son v. L., (DC-Minn), 27FSupp65. Rev'd on other grounds, (CCA8), 114F(2d)202.

Existence and extent of right of members of a corporation to control actions of corporate officers or agents is determined by law of state of incorporation. *Farmers Educational, Etc., v. F.*, 289NW884. See Dun. Dig. 2185.

Where act complained of affects plaintiff solely in his capacity, as a member, and is act of corporation, or through its agents, then such action is management of internal affairs of corporation, and, in case of a foreign corporation, our courts will not as a general rule take jurisdiction. *Id.* See Dun. Dig. 2185.

In suit by local division of foreign corporation to enjoin cancellation of charter of local division, defendant by general appearance and prayer for general and affirmative relief gave court jurisdiction of the subject matter. *Id.* See Dun. Dig. 2185.

7453. By-laws, how adopted.

Power to amend by-laws resides in stockholders and cannot be delegated to board of directors. Op. Atty. Gen. (27a-13), Aug. 14, 1940.

7455. Duration of corporate existence—Renewal.

Act Feb. 25, 1941, c. 20, authorizes co-operative companies and associations to renew their corporate existence, and validates certain such proceedings.

Laws 1941, c. 102, authorizes renewal of the corporate existence of certain corporations created under General Statutes of 1894, c. 34, Title 3, whose duration expired less than 21 years prior to passage of such act.

Act Mar. 28, 1941, c. 104, authorizes renewal of corporate existence of social, charitable, or fraternal corporations.

Act Apr. 9, 1941, c. 127, §1, legalizes proceedings to renew corporate existence of any private corporation organized under laws of state, etc.

Act Apr. 10, 1941, c. 167, provides for completion of certain proceedings to renew corporate existence, and validates certain corporate acts and contracts of corporations taking steps to renew their corporate existence.

Notes of Decisions

This is the only statute under which a county agricultural society may renew its corporate life. Op. Atty. Gen., (772a-5), Dec. 19, 1939.

As affecting necessity for renewal of corporate existence of corporate for mining and smelting ores and manufacturing iron, copper and other metals, laws 1876, chapter 28, was in full force and effect in 1903. Op. Atty. Gen. (92a-9), Jan. 18, 1940.

A chamber of commerce does not have a perpetual corporate existence. Op. Atty. Gen. (92a-9), Nov. 9, 1940.

7457-9. Corporate existence of cooperative associations renewed.

Renewal of corporate existence of certain co-operative corporations and validating acts and contracts of corporations taking steps to renew such corporate existence. Act Apr. 10, c. 166, §§1, 2.

7458. Election of board of directors.—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. Any action which might be taken at a meeting of the board of directors, trustees or managers may be taken without a meeting if done in writing signed by all of the directors, trustees or managers. (As amended Apr. 9, 1941, c. 148, §1.)

7470. Record of stock—Reports—Dividends.

Control of payment of dividends by state bank is within power of commissioner of banks, and he is not required to sit idly by until some provision of law is violated before he can act. Op. Atty. Gen. (29a-15), Nov. 13, 1940.

7472. Amendments to Certificates of Incorporation.

County agricultural associations formed under §7885 may amend their articles of incorporation under this section. Op. Atty. Gen. (772a-5), March 8, 1940.

Resolution of amendment should be adopted by a majority vote of members of an athletic club. Op. Atty. Gen. (92a-1), May 31, 1940.

7475-1. County agricultural societies may renew corporate existence.

Act Apr. 9, 1941, c. 147, §2, authorizes certain county agricultural societies to renew their corporate existence, and validates certain corporate acts and contracts of societies taking steps to renew their corporate existence.

7484. Dissolution of corporations.

A county agricultural society may be dissolved only upon affirmative vote of majority of voting stock or members. Op. Atty. Gen., (772a-5), Dec. 19, 1939.

7486. Extension of time for closing affairs, etc.

Time for closing affairs and disposing of property of certain corporations, not including those having power of eminent domain, whose existence has been terminated, is extended for two years. Laws 1941, c. 128.

7489. Diversion of corporate property.

Control of payment of dividends by state bank is within power of commissioner of banks, and he is not required to sit idly by until some provision of law is violated before he can act. Op. Atty. Gen. (29a-15), Nov. 13, 1940.

7492. Examination by attorney general, etc.

(f). One who has entered into a contract with another acting as a corporation cannot question corporate character of "corporation". *State v. Rivers*, 287NW790. See Dun. Dig. 1983.