

1934 Supplement

To

Mason's Minnesota Statutes

1927

(1927 to 1934)

(Superseding Mason's 1931 Supplement)

Containing the text of the acts of the 1929, 1931, 1933 and 1933-34 Special Sessions of the Legislature, both new and amendatory, and notes showing repeals, together with annotations from the various courts, state, federal, and the opinions of the Attorney General, construing the constitution, statutes, charters and court rules of Minnesota



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motto, button, decoration, charm, emblem, rosette, or other insignia of any such association or organization herein mentioned, duly registered hereunder, unless he or she shall be entitled to use and wear the same under the constitution and by-laws, rules and regulations of such association and organization, shall be guilty of a misdemeanor, and upon conviction, shall be punished by a fine not exceeding \$100.00, and in default of payment, committed to jail for a period of not to exceed 60 days. (Act Apr. 17, 1933, c. 295, §6.)

7352-7. Fees.—The fees of the Secretary of State for registration, alteration, cancellation, searches made by him, and certificates issued by him, pursuant to this Act, shall be the same as provided by law for similar services. The fees collected under this Act shall be paid by the Secretary of State into the state treasury. (Act Apr. 17, 1933 c. 295, §7.)

7352-8. Inconsistent acts repealed.—All Acts or parts of Acts inconsistent herewith are hereby repealed. (Act Apr. 17, 1933, c. 295, §8.)

CHAPTER 56C

Newspapers

7352-11. Newspapers to register statement of ownership—exceptions.—Every newspaper printed or published within the State of Minnesota excepting legally qualified newspapers shall register in the office of the register of deeds, a statement of the owners, printers and publishers of said paper, and the residence of each, and if the same shall be published by a corporation, the names and residences of the president, secretary and editors thereof. (Act Apr. 21, 1931, c. 293, §1.)

7352-12. Register of deeds to provide book.—The register shall provide a suitable book in which to register the names as herein provided and shall charge therefor a fee of fifty cents. (Act Apr. 21, 1931, c. 293, §2.)

7352-13. Shall not publish paper unless registered.—No newspaper excepting a legally qualified newspaper shall be printed or published within the State of Minnesota without the names of the owners, publishers and editors thereof stated and set forth in said newspaper. (Act Apr. 21, 1931, c. 293, §3.)

7352-14. Violation a gross misdemeanor.—In the event of any newspaper failing to file and register as provided for in Section 1 of this act, the party printing

or publishing the same shall be guilty of a gross misdemeanor. (Act Apr. 21, 1931, c. 293, §4.)

7352-15. Court to determine ownership.—In the event of the publication of any newspaper within the State of Minnesota without the names of the owners and publishers thereof fully set forth in said newspaper, circular or publication, the court or the jury may determine such ownership and publisher on evidence of the general or local reputation of that fact and opinion evidence may be offered and considered by the court or jury in any case arising in connection with the ownership, printing or publishing of any such publication or of any article published therein either in a criminal action for libel by reason of such publication or in any civil action based thereon. (Act Apr. 21, 1931, c. 293, §5.)

7352-16. Definition.—By the term "newspaper" as expressed herein, shall be included any newspaper, circular or any other publication whether issued regularly or intermittently by the same parties or by parties, one of whom has been associated with one or more publication of such newspaper or circular, whether the name of the publication be the same or different. (Act Apr. 21, 1931, c. 293, §6.)

CHAPTER 57A

Partnership

PART II.

NATURE OF A PARTNERSHIP

7389. Partnership defined.

Joint ownership of land does not create a partnership or make the owners joint adventurers. *Pratt v. M.*, 182 M250, 234NW464. See Dun. Dig. 4948b, 7346, 7350.

The evidence is not conclusive that there was a partnership between one of the defendants and a corporation now defunct. *Mahlberg v. J.*, 182M578, 235NW280. See Dun. Dig. 2092, 7346.

A partnership may be legal result of an agreement notwithstanding an expressed intention not to create such a relationship. *Randall Co. v. B.*, 248NW752. See Dun. Dig. 7346.

7390. Rules for determining the existence of a partnership.

One selling diamonds, held not shown to have been the partner of the owner. 180M447, 231NW408.

In action to recover on a printing bill, evidence held to justify finding that defendants were partners. *Randall Co. v. B.*, 248NW752. See Dun. Dig. 7349a(37).

PART III.

RELATIONS OF PARTNERS TO PERSONS DEALING WITH THE PARTNERSHIP

7392. Partner agent of partnership.

Where a partnership is a party to a contract, the acts of one member thereof bind the partnership. 174M297, 219NW180.

7396. Partnership bound by partner's wrongful act.

One partner, not guilty of any negligence, is not liable for the negligence of his copartner, in the carrying on of the partnership business, except to the extent that the copartner is liable. *Belleson v. S.*, 185M537, 242NW1. See Dun. Dig. 7370.

7398. Nature of partner's liability.

Belleson v. S., 185M537, 242NW1; note under §7396.

PART IV.

RELATIONS OF PARTNERS TO ONE ANOTHER

7401. Rules determining rights and duties of partners.

Evidence as to conduct of brokerage business, held to support finding that partner's interest was seven-sixteenths and not 44.3%, the basis of his contribution. *Burnett v. H.*, 187M7, 244NW254. See Dun. Dig. 7381.

7404. Partner accountable as fiduciary.

Rule that parties negotiating for organization of a partnership or joint adventure deal at arm's length cannot be extended so as to permit a secret share in the profits to be made by an agent in the transaction. 175 M226, 220NW822.

Accounting by surviving partner to representative of deceased partner. 181M156, 231NW916.

PART V.

PROPERTY RIGHTS OF A PARTNER

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

Action in conversion for partnership property cannot be maintained by partner against his copartner where there has been no accounting or no division of such property by agreement. *Ruschoff v. W.*, 185M579, 242 NW296. See Dun. Dig. 1935(33).

Subd. (2) (c).

Bond to release garnishment, reciting that there is a stated sum of money in the possession of the garnishee, held to estop the principal and sureties from denying that there was any garnishable property in the hands of the garnishee. 181M404, 232NW631. See Dun. Dig. 3975.

PART VI.

DISSOLUTION AND WINDING UP

7412. Dissolution defined.

Where money was loaned to partnership and subsequently one partner sold his interest to another partner, the selling partner was liable in action on note renewed after sale of his interest without knowledge on the part of the lender of such transfer of interest. 171M332, 214 NW51.

On dissolution of partnership, unimpaired contribution to capital was a "debt" due to partner on the books of the firm. Burnett v. H., 187M7, 244NW254. See Dun. Dig. 7396.

7418. Power of partner to bind partnership.

Where money was loaned to a partnership and defendant partner thereafter sold his interest to another

partner, defendant was liable on a renewal of the loan note after the transfer, plaintiff having no notice of the transfer of interest. 171M332, 214NW51.

7421. Rights of partners to application of partnership property.

Burnett v. H., 187M7, 244NW254; note under §7412.

7423. Rules for distribution.

Where a partner contributes more than his share of a partnership funds, he is not entitled to interest on the excess, in the absence of an agreement to that effect. 177M602, 225NW924.

Burnett v. H., 187M7, 244NW254; note under §7412.

Where several contributed property of an unequal value in the purchase of land, one of them was entitled to an interest based upon the value to which all the parties agreed, and not the actual value. Kallusch v. K., 185M3, 240NW108. See Dun. Dig. 4949.

CHAPTER 58

Corporations

GENERAL PROVISIONS

7429. Existing corporations continued.

Paterson v. S., 186M611, 244NW281; notes under §§7447, 7447-1.

Where a corporation was organized under Laws 1876, c. 23, with perpetual succession, it maintained that succession, notwithstanding the repeal by §10963 of the law under which it was organized, in view of the provisions of this section. Op. Atty. Gen., May 3, 1930.

7432. Public service corporations—Purposes of.

Street car company was not liable to one injured while climbing a pole upon which it had permitted city to attach a fire alarm wire. 171M395, 214NW658.

Contract between city and power company for furnishing of electricity delivered at city's power plant was not franchise within meaning of restrictions in city charter. Northern States Power Co. v. C., 186M209, 242 NW714.

Power company could not serve public in city granting only right to deliver and meter power at city's power plant. Northern States Power Co. v. C., 186M209, 242NW714. See Dun. Dig. 2996a.

7433. State and local control—Eminent domain.

There was no authority and no public necessity for the condemnation of an easement for an electric power line through Jay Cooke State Park. 177M343, 225NW 164.

3. Governmental control.

Matter of regulating rates for public service companies is left to the city council of South St. Paul, and fact that ordinance granting twenty-five year franchise was submitted to the people did not affect such power. Op. Atty. Gen., Sept. 12, 1930.

No state department has authority to regulate rates of electric light and power companies. Op. Atty. Gen., Feb. 7, 1930.

City may impose regulations upon a common carrier operating motorbuses upon its streets for transportation of passengers for hire, and may compel its acceptance of a franchise as a condition to its use of such streets. City of St. Paul v. T., 187M212, 245NW33. See Dun. Dig. 6618.

7434. Municipality may purchase.

City of Hutchinson could purchase public utility plant at the end of every term of five years notwithstanding provision in franchise to contrary. Op. Atty. Gen., Mar. 24, 1932.

7435. [Repealed].

Repealed Apr. 18, 1933, c. 300, §63.

Paterson v. S., 186M611, 244NW281; note under §7447.

7436. Mortgage loan and land companies.

The First Bank Stock Corporation and the Northwest Bancorporation are not "banks" or "mortgage loan companies" within statutes providing method for taxation of banks. Op. Atty. Gen., Aug. 29, 1930.

7440. [Repealed].

Repealed Apr. 18, 1933, c. 300, §63.

Op. Atty. Gen., July 6, 1931; note under §7441.

7441. Financial corporations.

Neither a foreign corporation duly authorized to conduct a safe deposit business nor a domestic corporation, unless a bank or trust company, can conduct a safe deposit business within the state. Op. Atty. Gen., July 6, 1931.

7442. Insurance corporations.

State v. Brown, 250NW2; note under §3315.

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; provided, no corporation shall be formed under this section which might be formed under the Minnesota Business Corporation Act. 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 name and place 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 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. '05, §2849; '07, c. 468, §1; G. S. '13, §6147; '19, c. 111, §1; Apr. 18, 1933, c. 300, §62, II.)

Whether a corporation is to exchange its capital stock for an issue of non-par stock rests in the judgment of majority stockholders. 172M303, 215NW185.

To constitute a de facto corporation there must be a valid law under which a corporation de jure may be formed; a bona fide or colorable attempt to incorporate; and a user of power. Ebeling v. L., 187M604, 246NW373. See Dun. Dig. 1981.

Insurance company may issue preferred stock which shall not be subject to any double liability, but such stock may not be exempted from assessment to make up impairment of capital. Op. Atty. Gen., Sept. 26, 1933.

(5.)

Banks may issue preferred stock. Op. Atty. Gen., Aug. 12, 1933.

7446-3. Certain corporations validated.—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