

REVISED LAWS OF MINNESOTA *94*

SUPPLEMENT 1909

CONTAINING

THE AMENDMENTS TO THE REVISED LAWS,
AND OTHER LAWS OF A GENERAL AND
PERMANENT NATURE, ENACTED
BY THE LEGISLATURE IN
1905, 1907, AND 1909

WITH HISTORICAL AND EXPLANATORY NOTES TO PRIOR STATUTES
AND FULL AND COMPLETE NOTES OF ALL
APPLICABLE DECISIONS

COMPILED AND ANNOTATED BY
FRANCIS B. TIFFANY

ST. PAUL
WEST PUBLISHING CO.

1910

joining county as such permanent merchant; nor to any sale made by virtue of any judgment, order or process of any court or upon the foreclosure of any mortgage or pursuant to any law of this state or of the United States or in the enforcement of any contract right or lien, nor to the sale by any individual of any article grown, produced by him. ('09 c. 248 § 9)

[2818—]10. **Cities having 50,000 inhabitants.**—No license under this act shall be required of any person for carrying on his business or calling in any city of this state having a population of 50,000 or over when he has been duly licensed thereto by such city. ('09 c. 248 § 10)

CHAPTER 58.

CORPORATIONS.

GENERAL PROVISIONS.

2838. Existing corporations continued.

Existing corporations.—The right to exercise the power of eminent domain, conferred upon a corporation organized under G. S. 1894, c. 34, tit. 1, was not abrogated, but confirmed and re-enacted, by the Revised Laws. *Minneapolis & St. P. S. Ry. Co. v. Manitou Forest Syndicate*, 101 Minn. 132, 112 N. W. 13. Cited in *State v. Duluth Board of Trade*, 107 Minn. 506, 121 N. W. 395.

2841. Public service corporations.

See note under section next following.

Right to occupy streets, etc.—The crossing of streets and alleys incidental to constructing a railroad from place to place does not constitute the occupancy of such streets or alleys for the purpose of operating a railway thereon, within this section. *Minneapolis & St. P. S. Ry. Co. v. Manitou Forest Syndicate*, 101 Minn. 132, 112 N. W. 13.

See note under section 2916.

Water power—Diversion of navigable waters.—A corporation organized under G. S. 1894, c. 34, was not authorized by section 2592, section 2604, as amended by Laws 1899, c. 51, and Laws 1901, c. 360, and section 2633 thereof as an incident to the construction of a canal and the creation of a water power, to divert the waters from navigable lakes and streams to such an extent as to interfere with present or future navigation and by means of canals carry it over a divide and discharge it into a different drainage area, thus permanently withdrawing it from its natural course. *Minnesota Canal & Power Co. v. Koochiching Co.*, 97 Minn. 429, 107 N. W. 405, 5 L. R. A. (N. S.) 638.

A public service corporation, although authorized to condemn private property for the construction of canals and reservoirs for the generation of electric power, may not exercise such power when the particular enterprise contemplates an interference with the navigability of the navigable waters of the state, unless such interference is expressly authorized by statute. *Minnesota Canal & Power Co. v. Pratt*, 101 Minn. 197, 112 N. W. 395.

2842. State and local control—Eminent domain.

Eminent domain—For what purposes.—The generation of electricity by water power for distribution and sale to the general public on equal terms, subject to governmental control, is a public enterprise, and property so used is devoted to public use. But the creation of a water power and a water power plant for the purpose of "supplying water from the wheels thereof" to the public is a private enterprise, in the aid of which the power of eminent domain cannot be exercised; the nature of water power being such that, under such conditions, it cannot be used by the public to such extent as to make the use a public use. *Minnesota Canal & Power Co. v. Koochiching Co.*, 97 Minn. 429, 107 N. W. 405, 5 L. R. A. (N. S.) 638.

Sections 2841, 2842, 2926, 2927, conferring the power of eminent domain on public service corporations for specified purposes, authorize the exercise of such power in aid of the construction of canals and reservoirs to be used to create and

distribute electric power for general public use. *Minnesota Canal & Power Co. v. Pratt*, 101 Minn. 197, 112 N. W. 395, 11 L. R. A. (N. S.) 105.

Cited in *Minneapolis & St. P. S. Ry. Co. v. Manitou Forest Syndicate*, 101 Minn. 149; 150, 112 N. W. 13.

See section 2926, and note thereunder.

— **“Public business.”**—The term “public business” includes the construction of works for supplying the public with water, light, heat, and power. *Minnesota Canal & Power Co. v. Pratt*, 101 Minn. 197, 112 N. W. 395, 11 L. R. A. (N. S.) 105.

— **Governmental control.**—Public service corporations, authorized to exercise the power of eminent domain, become subject to governmental regulation and control. The actual exercise of the state's power of regulation and control is not a condition precedent to the use of the power of eminent domain; the state being authorized to pass such regulatory measures as the future business of the corporation may require. *Minnesota Canal & Power Co. v. Pratt*, 101 Minn. 197, 112 N. W. 395, 11 L. R. A. (N. S.) 105.

— **Franchise not condition precedent.**—Where a public service corporation was authorized to furnish water, light, heat, and power for public and private use, it was not necessary that it should have first obtained a franchise from a municipality or a contract to furnish a city or village with its products before it was entitled to exercise its power of eminent domain. *Minnesota Canal & Power Co. v. Pratt*, 101 Minn. 197, 112 N. W. 395, 11 L. R. A. (N. S.) 105.

— **Construction of articles.**—As determined by the main purport of its articles, plaintiff corporation was organized for a work of internal improvement and as a common carrier, and, its articles having been executed in compliance with G. S. 1894, c. 34, tit. 1, was entitled to exercise the right of eminent domain conferred by section 2592 thereof, though the incorporators declared in the articles that they proposed to incorporate under title 2. In determining under what title the corporation was organized, the fact that the organizers denominated the proposed improvement a “street railway” was not controlling, since it conclusively appeared from the articles that it was not the purpose to construct and operate street, but interurban, railways from place to place. *Minneapolis & St. P. S. R. Co. v. Manitou Forest Syndicate*, 101 Minn. 132, 112 N. W. 13.

See *Minneapolis St. R. Co. v. City of Minneapolis* (C. C.) 155 Fed. 989.

— **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. *Chambers v. Great Northern Power Co.*, 100 Minn. 214, 110 N. W. 1123.

2849. How organized—Certificate.— * * *

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 end with “company,” “corporation,” “bank,” or “association,” or the word “incorporated.” (R. L. § 2849, subd. 1, as amended by Laws 1907, c. 468, § 1.)

[2851—]1. **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 the 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)

Historical.—“An act to legalize certain corporations.” Approved April 19, 1905.

2852. General powers.

Subd. 7.—Cited in *Beyer v. Woolpert*, 99 Minn. 475, 109 N. W. 1116.

[2852—]1. 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)

Historical.—"An act to legalize titles to real property heretofore acquired through corporations disqualified to acquire, hold or dispose of such property." Approved April 19, 1909.

2856. Duration—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 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 represented at any regular meeting, or at any special meeting called for that purpose, which shall have been clearly specified in the call, shall adopt a resolution to that effect, and those desiring it shall have purchased at its value the stock of those opposed thereto. (R. L. § 2856, as amended by Laws 1907, c. 468, § 2.)

Street railway company.—While street railroad companies are not specifically mentioned under either title 1 or title 2 of G. S. 1866, c. 34, the nature of their business is such as to render them quasi public corporations, which might properly be authorized to exercise the power of eminent domain and to bring them within the generic term "railways," and a street railroad company organized under said chapter came within the provisions of and derived its powers from title 1, having the right to fix the term of its corporate existence at 50 years. *Minneapolis St. R. Co. v. City of Minneapolis* (C. C.) 155 Fed. 989.

[2857—]1. Building associations—Renewal in certain cases.—Whenever the period of the duration of any local building association heretofore incorporated under the laws of this state has expired within three years prior to the passage of this act, and through inadvertence or otherwise the same has not been renewed, and such association has continued to transact its business as before the expiration of such period, the duration of the existence of such association may be renewed for the farther period of thirty years from and after the time of the expiration of said first period in the manner and by the adoption of the resolution to that effect provided in section 2856 of chapter 58 of the Revised Laws, 1905. Such resolution together with the certificate of the president and secretary of such association stating the facts relative to said matter and the adoption of such resolution, and also that all shares of stock in such corporation held by stockholders who opposed the adoption of such resolution at said meeting, if any such there be, have been purchased at its value by stockholders favoring such resolution, shall be filed, recorded and published in the same manner as now provided for the filing, recording and publication of original articles or certificates of incorporation. Thereupon such resolution shall have the effect of continuing the period of the duration of such corporation for the time therein stated. ('09 c. 36 § 1)

Historical.—"An act to provide for the renewal of the period of duration of local building associations in certain cases." Approved February 25, 1909.

[2857—]2. Same—Existing rights not affected.—Nothing herein contained shall be so construed as to in any manner affect the existing rights of any stockholder or other person arising out of the

failure to extend the period of the duration of said corporation prior to the expiration thereof as aforesaid. ('09 c. 36 § 2)

[2857—]3. Turnpike or plank road corporations—Renewal in certain cases.—Whenever the period of the duration of any corporation heretofore organized under the laws of this state for the purpose of constructing and operating a turnpike or plank road with all necessary bridges and ferries as expressed in its articles of incorporation has expired within five years prior to the passage of this act, it shall be lawful for the holders of at least two-thirds in amount of the capital stock of said corporation by a resolution to that effect duly adopted by the affirmative vote of such two-thirds of such stock at any meeting of such corporation to so amend the original articles of such corporation as to extend the period of its duration for the further period of thirty years from and after the expiration of the said period as expressed in its original articles of incorporation. ('09 c. 149 § 1)

Historical.—“An act to authorize a corporation organized under the laws of this state for the purpose of constructing and operating a turnpike or plank road with all necessary bridges and ferries, whose period of duration has expired within five years prior to the passage of this act, to renew the same for a further period of thirty years, in certain cases.” Approved April 6, 1909.

Section 5 repeals inconsistent acts.

[2857—]4. Same—Notice to stockholders.—Notice of any such meeting shall be given to the stockholders of such corporation by the publication thereof for one week in some weekly newspaper printed and published in the principal place of transacting the business of such corporation as expressed in its original articles of incorporation. ('09 c. 149 § 2)

[2857—]5. Same—Resolution to be published and recorded—Effect.—Such resolution duly certified by the president of such corporation to have been adopted as herein provided shall be published for one week in the weekly newspaper aforesaid, and together with proof of the publication thereof as aforesaid shall be recorded in the office of the register of deeds of the county wherein the principal place of transacting the business of said corporation is situate, and also recorded in the office of the secretary of state of Minnesota. And thereupon the period of the duration of said corporation shall thereby be extended for the further period of thirty years from and after the expiration of the period of the duration of said corporation as expressed in its original articles of incorporation, with like force and effect as though said period had been duly extended for such further period prior to the expiration of the period expressed in such original articles of incorporation. ('09 c. 149 § 3)

[2857—]6. Same—Existing rights.—Nothing herein contained shall be so construed as to in any manner limit, prejudice or affect any rights heretofore acquired by any person by reason of the expiration of the said period of the duration of said corporation as expressed in its original articles of incorporation. ('09 c. 149 § 4)

[2857—]7. Defective proceedings for renewal—Curative.—That in any case where a corporation, created by and under the laws of this state, shall have within the period of its corporate existence, initiated, in good faith, proceedings authorized by law for the extension of its corporate existence, which said proceedings were taken in the month of December, 1906, and were defective, and where a resolution then adopted has not been filed, recorded and published, as provided by law, within the period of its corporate existence, that said corporation shall have up to and including the 1st day of July, 1909, to adopt a proper resolution to extend its corporate existence, and to record the same in the office of the

register of deeds and secretary of state, and to have the same duly published as provided by law. 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. ('09 c. 140 § 1)

Historical.—"An act to legalize, in certain cases, proceedings for extending the period of corporate existence of corporations." Approved April 3, 1909.

2859. 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, as amended by Laws 1909, c. 298, § 1.)

Historical.—"An act to amend section 2859 of the Revised Laws of 1905, and to legalize and make valid certain corporations heretofore organized in this state." Approved April 21, 1909.

2863. Transfer of stock.

In general.—Where shares of stock are transferred to a party as collateral security, and they are so registered, he is not liable as a stockholder for the debts of the corporation. *Marshall Field & Co. v. Evans, Johnson, Sloane & Co.*, 106 Minn. 85, 118 N. W. 55, 19 L. R. A. (N. S.) 249.

2864. Effect of transfer—Stock books.

Liability of stockholder—Effect of transfer.—A shareholder cannot affect his constitutional liability for the prior debts of the corporation by a bona fide sale of his stock and a transfer thereof on the books of the corporation. *Tiffany v. Giesen*, 96 Minn. 488, 105 N. W. 901.

G. S. 1894, § 2599, cited in *McConey v. Belton Oil & Gas Co.*, 97 Minn. 190, 106 N. W. 900.

— **Pleading and practice.**—Where the complaint stated facts sufficient to establish a stockholder's liability under the Constitution, such issue was not waived by the additional allegation that the stock had subsequently been transferred in bad faith and without consideration. Such stockholder was liable upon his stock, notwithstanding that he had subsequently transferred the same in good faith for a valuable consideration, and it was error to dismiss the action at the close of plaintiff's case upon the ground that the evidence was insufficient, and that plaintiff abandoned the cause of action in not proving a legal transfer of the stock as alleged.—*Tiffany v. Giesen*, 96 Minn. 488, 105 N. W. 901.

— **Joinder of parties.**—Where defendant stockholder had transferred his stock after his constitutional liability in favor of a creditor had accrued, he was liable in an independent action; and it is not necessary to make the transferee a party. If defendant desired to have the transferee made a party, upon the ground that execution might be enforced against him in the first instance, because of his primary liability, application should have been made for such purpose. *Tiffany v. Giesen*, 96 Minn. 488, 105 N. W. 901.

2865. Liability of stockholders.

Cited in *McConey v. Belton Oil & Gas Co.*, 97 Minn. 190, 106 N. W. 900.

See note under section next preceding.

2866. Property of stockholders levied on, when.

Foreign corporations.—Judgment having been recovered against a foreign corporation in this state, where it maintained its principal place of business, and it appearing that it possessed no assets in Arizona, where it was incorporated, it was not necessary to secure judgment against it in Arizona, preliminary to bringing an action against the stockholders in this state. *McConey v. Belton Oil & Gas Co.*, 97 Minn. 190, 106 N. W. 900.

2868a. 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 thou-

sand inhabitants shall in no case be less than five hundred dollars.
(’09 c. 68 § 1)

Historical.—“An act amendatory of chapter 58 of Revised Laws, 1905, of Minnesota, relating to corporations and creating a new section of the Revised Laws, 1905, to be numbered and designated as section 2868a, being in relation to the amount of capital stock of certain corporations and adding the same to said revised laws.” Approved March 12, 1909.

[2871—]1. Corporations other than for pecuniary profit—Increase or decrease 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 the trustees of such corporation and provide for their election; 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 in the county where the corporation is located, and in the office of the secretary of state. (Laws 1897, c. 59, as amended by Laws 1905, c. 304, § 1.)

Historical.—“An act to amend chapter 59 of the General Laws of Minnesota for the year 1897.” Approved April 19, 1905.

Laws 1907, c. 59, was repealed by R. L. § 5542. So far as the amended section above set forth differs from the Revised Laws, it is to be construed, by virtue of section 5504, as amendatory or supplementary.

2872. Increase of railway stock, how authorized.

Constitutionality.—This section does not violate article 1, § 11, of the state Constitution, or article 1, § 10, of the federal Constitution. It does, however, violate section 1, art. 3, of the state Constitution, in that it delegates to the commission legislative power. *State v. Great Northern R. Co.*, 100 Minn. 445, 111 N. W. 289, 10 L. R. A. (N. S.) 250.

2873. 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, as amended by Laws 1907, c. 329, and Laws 1909, c. 202, § 1.)

2878. Capital stock—How classified and issued.

Issue for less than par.—Shares issued and sold as full-paid stock, but for less than par value, are not void; but the agreement between the holder and the corporation that it shall be treated as paid in full is voidable as to the creditors of the corporation. The holder of such stock, though he paid less than par, may maintain an action to protect such rights as accrue to him as a stockholder. *Shaw v. Staigt*, 119 N. W. 951, 20 L. R. A. (N. S.) 1077.

2882. Dissolution of corporations.

Cited and applied in *Beyer v. Woolpert*, 99 Minn. 475, 109 N. W. 1116.
See note under section 3175.

2883. Continuance for three years to close affairs.

In general.—Transfer by the Hastings & Dakota Railway Company of the right to select indemnity lands within three years after its dissolution, under this section, vested in the purchaser the right to make such selection. *Norton v. Frederick*, 119 N. W. 492.

[2883—]1. **Conveyances by certain corporations after three years—Curative.**—When 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 or otherwise, did not fully close its affairs and convey all its property within the three years' limit prescribed by General Statutes 1894, section 3431, the time so limited is hereby extended for one year from and after the passage of this act; and any and all conveyances heretofore made by any such corporation or its proper officers and any and all acts done in disposing of the property of such corporation and closing its affairs, after the expiration of three years from the date of its dissolution, are hereby legalized and made of the same force and effect as though the same had been done within such three years. Provided, that nothing herein contained shall be construed as affecting any vested rights or any action or proceeding now pending. ('05 c. 128 § 1)

Historical.—"An act to extend the time for closing the affairs of a dissolved corporation other than a corporation having the power of eminent domain and legalizing conveyances made and acts done by such corporation after the expiration of the three-year limit prescribed by General Statutes 1894, section 3431." Approved April 11, 1905.

FOREIGN CORPORATIONS.

2888. Office and agent in state.

Cited and applied in *Dunlop v. Mercer*, 156 Fed. 545, 86 C. C. A. 435.
See note under section 2890.

2889. Filing articles—License fees.

Cited and applied in *Dunlop v. Mercer*, 156 Fed. 545, 86 C. C. A. 435.

2890. Penalties—Exceptions.

What constitutes doing business within state.—A single isolated transaction, such as the sale and delivery of a machine by a foreign corporation to a person within the state, is not doing business within the state within the meaning of sections 2888-2890.—*Lutes Co. v. Wysong*, 100 Minn. 112, 110 N. W. 367.

A foreign corporation, which ships its goods to a distributing warehouse within the state, where they are received and forwarded by a distributing agent under a special contract, on the order of the corporation, to parties within the state, who receive the goods under contracts which contemplate their sale at retail within defined territory, and which provide that the title of the goods and the proceeds of the sales shall remain in the corporation until it receives the full price and that the corporation under certain conditions may revoke the contract, and contain numerous other provisions inconsistent with a sale, and consistent only with an agency, is doing business in the state through local agents established therein. *Thomas Mfg. Co. v. Knapp*, 101 Minn. 432, 112 N. W. 989.

Cited and applied in *Brown-Forman Co. v. Peterson*, 101 Minn. 53, 111 N. W. 733.

Right to plead noncompliance.—In an action by a 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 with Laws 1899, cc. 69, 70. *Thomas Mfg. Co. v. Knapp*, 101 Minn. 432, 112 N. W. 989.

Where, in an action for goods sold, the answer presented the defense that plaintiff was a foreign corporation, which had not complied with the statute, and that the sale took place within this state, it was error to strike out the answer as false. *Beckwith v. Golden Rule Co.*, 121 N. W. 427.

Federal courts.—Contracts innocent or beneficial in themselves, made by foreign corporations while doing business in the state without complying with the statute, were not made void thereby. The purpose and effect of the statute were to require foreign corporations doing business in the state to subject themselves to the jurisdiction of its courts and to a compliance with the other prescribed conditions, and in case of their failure to do so to refuse to permit them to use those courts to maintain their suits and to impose upon them a penalty of \$1,000 for each offense. The provision which prohibits unqualified foreign corporations doing business in the state from maintaining suits in its courts, was not intended to, and it does not, restrict or affect the power or duty of the national courts to determine controversies in bankruptcy proceedings or other controversies of which the Constitution and the acts of Congress gave them jurisdiction. *Dunlop v. Mercer*, 156 Fed. 545, 86 C. C. A. 435.

[2890—]1. 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, 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)

Historical.—“An act to legalize and validate contracts heretofore entered into with, and conveyances made to, or by, foreign corporations, having no capital stock, which failed to comply with chapters sixty-nine and seventy, Laws of eighteen hundred and ninety-nine, being sections 2888, 2889 and 2890, Revised Laws of Minnesota, 1905; immediately upon the passage of said law, and which corporations have now complied with said act, by paying into the state treasury the minimum fee of fifty dollars therein provided for, and have received from the secretary of state a certificate that said corporations have complied with the laws of this state, and are authorized to do business therein.” Approved April 25, 1907.

[2890—]2. 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)

PUBLIC SERVICE CORPORATIONS.

RAILROAD CORPORATIONS.

2891. 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, as amended by Laws 1909, c. 494, § 1.)

G. S. 1894, § 2670, cited in *Lawver v. Great Northern R. Co.*, 97 Minn. 36; 105 N. W. 1129.

2892. 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 there-

on, 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, as amended by Laws 1909, c. 494, § 1.)

2895. 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, as amended by Laws 1907, c. 395, § 1.)

G. S. 1894, § 2714, cited in *Minneapolis & St. P. S. R. Co. v. Manitou Forest Syndicate*, 101 Minn. 132, 112 N. W. 13.

2897. Consolidation permitted.

G. S. 1894, § 2715, cited in *Minneapolis & St. P. S. R. Co. v. Manitou Forest Syndicate*, 101 Minn. 132, 112 N. W. 13.

2899. Method of combination.

Cited in *State v. Great Northern R. Co.*, 100 Minn. 445, 111 N. W. 289, 10 L. R. A. (N. S.) 250.

See note under section 2872.

2900. Aid in construction of connecting roads.

Cited in *Beckwith v. Golden Rule Co.*, 121 N. W. 427.

2911. Unpaid or fictitious stock.

Cited in *State v. Great Northern R. Co.*, 100 Minn. 445, 111 N. W. 289, 10 L. R. A. (N. S.) 250.

2912, 2913. [Repealed. Laws 1907, c. 231.]

2915. Connection with other roads.

To what companies applicable.—This section, authorizing a railroad company to cross the tracks of another and to acquire such easement by condemnation, confers such right on all railroad corporations organized under the former statutes, as well as those organized under the Revised Laws. *Minneapolis & St. P. S. R. Co. v. Manitou Forest Syndicate*, 101 Minn. 132, 112 N. W. 13.

2916. Right of way over public ways.

Operations in general.—A railroad company has the right to acquire by condemnation under this section, a right of way over the streets and alleys of cities and villages, and over private property within such limits, without securing a franchise from the municipal authorities. *Minneapolis v. St. P. S. R. Co. v. Manitou Forest Syndicate*, 101 Minn. 132, 112 N. W. 13.

G. S. 1894, § 2642, cited and applied in *State ex rel. City of Minneapolis v. St. Paul, M. & M. R. Co.*, 101 Minn. 545, 112 N. W. 1142.

See note under section 2841.

2926. Right of eminent domain in certain cases.

Cited and applied in *Minneapolis & St. P. S. R. Co. v. Manitou Forest Syndicate*, 101 Minn. 132, 112 N. W. 13; *Minnesota Canal & Power Co. v. Pratt*, 101 Minn. 197, 112 N. W. 395, 11 L. R. A. (N. S.) 105.

See note under sections 2841, 2842.

2927. Use of public roads—Restriction.

In general.—Laws 1893, c. 74, amending G. S. c. 34, § 42, was within the power of the Legislature over public highways, the statute before amendment merely granting a license, which the Legislature could revoke or modify, except in so far as it had been previously acted upon by the erection of poles in streets or highways; and under such amended statute and Laws 1901, c. 360, a city or village may exclude any telephone company from using any street or alley not used by it prior to the amendment, unless authorized by an ordinance or resolution of its council. The fact that a telegraph or telephone line will be used as an instrument of interstate commerce does not enlarge the rights of the company projecting such line. *Northwestern Telephone Exchange Co. v. City of St. Charles* (C. C.) 154 Fed. 386.

Cited and applied in *Minnesota Canal & Power Co. v. Pratt*, 101 Minn. 197, 112 N. W. 395, 11 L. R. A. (N. S.) 105.

See note under section 2842.

BOOM COMPANIES.

2933. Corporations for driving logs.

See section [2934—] 1, and note thereunder.

2934. Powers and privileges.

See section [2934—] 1, and note thereunder.

[2934—]1. 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, as amended by Laws 1889, c. 221, § 2, and Laws 1905, c. 89, § 1.)

Historical.—"An act to amend 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.'" Approved March 29, 1905.

Laws 1889, c. 221, was repealed by R. L. § 5538; the provisions of section 2 thereof being incorporated in part in sections 2933, 2934. So far as the section above set forth differs from the Revised Laws, it is to be construed, by virtue of section 5504, as amendatory or supplementary.

Boom companies.—Defendant, though its articles stated that it was incorporated under G. S. 1894, c. 34, tit. 2, was in fact, as shown by its declared objects, organized for the purpose of improving Rainy Lake river, to facilitate and render the driving of logs thereon practicable, by locating therein booms and sorting works, and for conducting the business of storing, sorting, booming, and handling logs thereon; the business contemplated by Laws 1889, c. 221, amendatory of G. S. 1878, c. 34, tit. 1. As such, it was entitled to all the benefits of that statute. *International Boom Co. v. Rainy Lake River Boom Corp.*, 97 Minn. 513, 107 N. W. 735.

Laws 1889, c. 221, § 2, as amended by Laws 1905, c. 89, cannot be construed to authorize such a company to extend its works beyond the center of Rainy Lake river and within the jurisdiction of the Dominion of Canada. *Rainy Lake River Boom Corp. v. Rainy River Lumber Co.*, 162 Fed. 287, 89 C. C. A. 267.

Cited in *Minnesota Canal & Power Co. v. Pratt*, 101 Minn. 197, 112 N. W. 395, 11 L. R. A. (N. S.) 105.

See note under section 2842.

Lien.—Where defendant boom company, pursuant to a contract, collected, sorted, and handled plaintiff's logs as they were driven down the river, it was entitled to reasonable compensation therefor, to enforce payment of which it possessed a lien upon the logs by virtue of the statute, and was entitled to retain possession of them until the lien was paid and discharged. There was no waiver of such lien by the surrender and delivery of part of the logs. The lien extends to all logs with reference to which labor and services are performed, and may be enforced as an entirety against any portion of the logs. *International Boom Co. v. Rainy Lake River Boom Corp.*, 97 Minn. 513, 107 N. W. 735.

Where defendant, a Minnesota boom corporation, had its principal booms on the Minnesota side of the Rainy Lake river, but extended its sheer boom across to the Canadian shore, and thereby intercepted logs of plaintiff, a Canadian company, cut on the Canadian side, plaintiff could not be subjected by means thereof, without its consent, to tolls for handling its logs. *Rainy Lake River Boom Corp. v. Rainy River Lumber Co.*, 162 Fed. 287, 89 C. C. A. 267.

[2934—]2. **Same—Pending actions.**—Nothing in this act contained shall effect any action or proceeding now pending in any court of this state. ('05 c. 89 § 2)

CEMETERY ASSOCIATIONS.

[2935—]1. **Certain cemetery associations legalized—Curative.**—That in all cases where an attempt in good faith has been made by the citizens or residents of any town or village in this state to organize a public cemetery association pursuant to the laws of this state, and where the first meeting for that purpose was held subsequent to January first, eighteen hundred and sixty, and where it appears from the records and minute books of such association that such meeting was actually held subsequent to January first, eighteen hundred and sixty, and prior to the passage of this act, and that the association formed at such meeting entered upon the work of acquiring and maintaining a cemetery and actually purchased or acquired property for such purpose, which said property has ever since been used and maintained as a public cemetery, the association so formed is hereby declared to be a duly incorporated cemetery association and body politic, with all the rights, powers and privileges of public cemetery associations, as defined by Revised Laws of Minnesota, nineteen hundred and five. ('07 c. 16 § 1)

Historical.—"An act to declare certain cemetery associations duly incorporated and to cure certain specified defects in the organization of such associations." Approved February 21, 1907.

[2935—]2. **Same—Record of minutes.**—The records and minutes of any meeting which, under any law, were required to be recorded but which have not heretofore been recorded, may be hereafter recorded in the proper office, provided, the same are certified to be correct according to the best knowledge, information and belief of the officers of such association at the time the same are offered for record, which certificate shall be verified by the oath of such officers, and when recorded the same shall be of the same force and effect as if the same had been recorded at the time provided for by law. ('07 c. 16 § 2)

[2935—]3. **Same—Associations excepted—Private cemetery.**—This act shall not apply to private cemetery associations nor to cemetery associations situated in counties containing a city of more than fifty thousand inhabitants. ('07 c. 16 § 3)

[2935—]4. **Certain associations legalized—Curative.**—That the action of all persons attempting to incorporate as a cemetery association, pursuant to title 5 of chapter 34, of the General Statutes of Minnesota, 1878, where such persons have held a meeting pursuant to section two hundred thirty-nine of said chapter, and a certificate of organization as a cemetery association has been made and filed as required by section two hundred forty-one of said chapter, except that such certificate did not state "the day of the year fixed upon for the annual election of trustees and the manner of said election," is hereby declared valid, and such attempted incorporation is hereby ratified and declared valid, notwithstanding the failure of such certificate to state the time for the annual election of trustees and the manner of such election. ('07 c. 392 § 1)

Historical.—"An act to validate and legalize cemetery associations attempted to be incorporated under and pursuant to title five of chapter thirty-four of the General Statutes of the State of Minnesota, 1878." Approved April 24, 1907.

[2935—]5. **Same—Annual election—Acts validated.**—That the trustees of any such cemetery association may, at a regular meeting thereof, when at least three-quarters of the trustees are present, and where previous notice of the intention to act on the question has first been duly given to all trustees, by a majority vote of all the trustees of such cemetery association, designate the time for holding the annual election of such cemetery association, and the time so fixed by said trustees shall have the same force and effect as though the

same had been set forth particularly in the certificate of organization as required by section 241 of said chapter 34, aforesaid. And all elections of trustees heretofore held by any such cemetery association are hereby confirmed and validated, and all the acts of such acting trustees, and all contracts made by or with such cemetery association through them, are hereby confirmed and validated as fully as though said certificate of organization contained the day of the year fixed upon for the annual election of trustees and the manner of said election. This act shall in no manner affect any pending action in litigation by or against any such cemetery association so attempted to be formed as aforesaid. ('07 c. 392 § 2)

[2935—]6. Certain associations legalized—Curative.—That in all cases where an attempt has been made in good faith by the citizens or residents of any county in this state to organize a cemetery association pursuant to the laws of this state, and where articles of incorporation have been executed and filed in the office of the register of deeds of such county, prior to the first day of January, 1872, and where such association has in good faith entered upon the work of acquiring and maintaining a cemetery and has actually purchased or acquired property for such purpose, which property has ever since been used and maintained as a public cemetery, the association so attempted to be formed is hereby declared to be a duly incorporated public cemetery and body politic, with all the rights, powers and privileges now conferred by law upon public cemetery associations, and such cemetery associations hereby legalized shall have perpetual succession. ('09 c. 387 § 1)

Historical.—"An act to declare certain cemetery associations duly incorporated as public cemeteries and grant them perpetual succession." Approved April 22, 1909.

[2935—]7. Same—In cities having 50,000 inhabitants.—This act shall not apply to cemetery associations in counties containing a city of more than fifty thousand inhabitants. ('09 c. 387 § 2)

[2949—]1. 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)

Historical.—"An act to legalize in certain cases the reconveyance of cemetery lots to a cemetery corporation by mesne conveyances." Approved April 19, 1905.

2950. Care and improvement fund.

See section next following, and note thereunder.

[2950—]1. Care and improvement fund.—That any association formed under the provisions of title five of chapter thirty-four of the General Statutes A. D. one thousand eight hundred and seventy-eight which shall have established and shall be maintaining a cemetery of five acres or more, in extent, may by a two-thirds vote of the trustees of such association, which vote may be taken at any regular meeting of such trustees, provided, in accordance with the terms of this act, for the 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. (Laws 1887, c. 168, § 1, as amended by Laws 1897, c. 339, § 1, and Laws 1905, c. 197, § 1.)

Historical.—"An act to amend section one of chapter one hundred and sixty-eight of the General Laws of the year 1887, as amended by section one of

chapter three hundred thirty-nine of the General Laws of the year 1897, entitled 'An act to provide for the establishment of permanent funds for the care, maintenance and improvement of cemeteries.' Approved April 15, 1905.

Laws 1887, c. 168, and Laws 1897, c. 339, were repealed by R. L. §§ 5537, 5542; the provisions of said amended section 1 being incorporated in section 2950. So far as the amended section above set forth differs from the Revised Laws, it is to be construed, by virtue of section 5504, as amendatory or supplementary.

2953. 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, as amended by Laws 1907, c. 211, § 1.)

[2959—]1. 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)

Historical.—“An act relating to cemetery associations and authorizing the reorganization of such associations in certain cases.” Approved April 8, 1909.

[2959—]2. Same—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 notice, 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)

[2959—]3. Same—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)

[2959—]4. Same—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 [2959—1] 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)

[2959—]5. **Same—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[2959—4] 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)

PRIVATE CEMETERIES.

[2963—]1. **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)

Historical.—"An act to provide for the consolidation of any private cemetery platted and recorded with a cemetery corporation organized under the laws of this state, which is contiguous and adjacent thereto and for the transfer of its property to such cemetery corporation." Approved March 15, 1905.

[2963—]2. **Same—Effect of transfer—Unsold lots—Former conveyances validated.**—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 corpora-

tion 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)

FINANCIAL CORPORATIONS.

GENERAL PROVISIONS.

[2967—]1. **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 relating to financial corporations, and when so conducted said business shall be known as “banking.” (Laws 1907, c. 111, § 1, as amended by Laws 1909, c. 103, § 1.)

By section 5 of the earlier act, it took effect April 1, 1908.

[2967—]2. **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)

[2967—]3. **Same—Penalty.**—Whoever violates the provisions of this act shall be guilty of a misdemeanor. ('07 c. 111 § 3)

[2967—]4. **Same—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)

2977. 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 exceeding 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 dollars or fractional part thereof. (R. L. § 2977, as amended by Laws 1907, c. 415, § 1.)

2978. Unlawful use of certain words.—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 banks 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, 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 public examiner, and may solicit and receive deposits in said savings department and advertise the same as such. 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. § 2978, as amended by Laws 1909, c. 178, § 1.)

BANKS.

2985. 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 transferer; 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 letter heads and all stationery and advertising matter the words: "Stockholders in this bank subject to single liability only." (R. L. § 2985, as amended by Laws 1907, c. 137, § 1.)

Cited in State ex rel. Douglas v. Savings Bank of St. Paul, 102 Minn. 199, 113 N. W. 268.

Laws 1895, c. 145, § 5, cited in State ex rel. Pope v. Germania Bank of St. Paul, 106 Minn. 446, 119 N. W. 61.

2993. Loans, how limited.—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 per cent of its capital actually paid in cash and of its actual surplus fund. Provided, however, that on all loans made upon first mortgage security on improved farms located within the State of Minnesota, the limit of such loan shall not exceed twenty per cent of the paid-in capital stock and surplus of the bank; provided, that such mortgage loans be limited to, and in no case to exceed fifty per cent of the cash value of the security covered by such mortgage. 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 this section, viz.:

1. Of commercial paper actually owned by the person negotiating the same.

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 authorized 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. (R. L. § 2993, as amended by Laws 1907, c. 156, § 1.)

2998. Insolvent banks—Examiner to take charge, when.

Laws 1895, c. 145, as amended by Laws 1897, c. 228, cited in Willius v. Albrecht, 100 Minn. 436, 111 N. W. 387, 112 N. W. 862.

See note under section 3173.

Neglect of receiver—Surcharging account.—The question whether the receiver's accounts should be surcharged, as demanded by the creditors, for losses alleged to have resulted from his negligent management of the estate, was prop-

er for determination by the trial court. State ex rel. Pope v. Germania Bank of St. Paul, 103 Minn. 129, 114 N. W. 651.

Where competent counsel is employed whose advice is followed in good faith, the receiver is not liable for consequent losses. State ex rel. Pope v. Germania Bank, 106 Minn. 164, 118 N. W. 683.

Compensation of attorneys.—The allowance of compensation to attorneys for receivers or assignees for extraordinary services, over and above the amount fixed for their general services, is within the discretion of the court. State ex rel. Pope v. Germania Bank of St. Paul, 103 Minn. 129, 114 N. W. 651.

[3002—]1. **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, and all persons and partnerships engaged in any business conducted by any of the corporations mentioned in said section. ('09 c. 179 § 1)

Historical.—“An act providing for, and regulating proceedings against, and liquidation of, delinquent financial corporations and bankers.” Approved April 13, 1909.

[3002—]2. **Same—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)

[3002—]3. **Same—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 time 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 depositary, 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)

SAVINGS BANKS.

3015. 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, as amended by Laws 1907, c. 468, § 3.)

3016. 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 employé 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, as amended by Laws 1907, c. 468, § 4.)

Cited in *State ex rel. Douglas v. Savings Bank of St. Paul*, 102 Minn. 199, 113 N. W. 268.

See note under section 3025.

3018. 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 pass-books, 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, as amended by Laws 1907, c. 468, § 5.)

3019. 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, as amended by Laws 1907, c. 468, § 6.)

3022. Authorized securities.— * * *

4. In notes secured by mortgages on unincumbered real estate in Minnesota, Wisconsin, Iowa, North Dakota and South Dakota 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 investment shall be made only on report of a committee directed to investigate the same and report its value, according to their judgment, 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. (R. L. § 3022, subs. 4, 5, as amended by Laws 1907, c. 468, §§ 7, 8.)

3025. 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 ye and nay 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, as amended by Laws 1907, c. 468, § 9.)

In general.—A creditor of an insolvent savings bank, organized under Laws 1867, c. 23, sought to procure an order directing the receiver to sell the bank's charter, which provided for distribution of net profits remaining after payment of interest to depositors among the stockholders. Subsequent legislation returned all net profits to depositors, and prohibited trustees from having, directly or indirectly, any interest in deposits. Held, that such order would have sanctioned the bank's continued existence after discharge of the receiver, and have adjudicated that such existence should not be terminated by the judgment to be entered, and that such an extension of special privilege was against public policy. *State ex rel. Douglas v. Savings Bank of St. Paul*, 102 Minn. 199, 113 N. W. 268.

3027. 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. Such other information as the public examiner may require.

(R. L. § 3027, as amended by Laws 1907, c. 468, § 10.)

TRUST COMPANIES.

3033. Capital—Amount and character of deposits.—The capital of every trust company shall not be less than two hundred thousand dollars nor more than two million dollars. It shall not transact any business until at least two hundred thousand dollars has been actually paid in, in cash, and at least one-fourth of its capital invested in one or more of the first, second, third, fourth, seventh and eighth classes of authorized securities, duly assigned and transferred to and deposited with the public examiner, and his certificate thereof procured. Before issuing such certificate, the public examiner shall carefully examine the securities offered for deposit and ascertain that they comply with all the provisions of law applicable thereto. 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. The capital stock of such company may be reduced with the approval of the public examiner, but not below two hundred thousand dollars 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; nor shall the liability of any stockholder upon any existing contract be affected thereby. (R. L. § 3033, as amended by Laws 1907, c. 225, § 1.)

See sections [3047—]1 to [3047—]5.

[3047—]1. 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)

Historical.—“An act relating to annuity safe deposit and trust companies.” Approved March 21, 1905.

Section 4 repeals inconsistent acts. See sections [3047—]4, [3047—]5.

[3047—]2. Same—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)

See note under section next preceding.

[3047—]3. Same—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)

See note under section [3047—]1.

[3047—]4. 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)

Historical.—"An act to provide for turning over to the superintendent of banks securities deposited by trust companies with the state treasurer and the records and papers relating thereto." Approved April 24, 1909.

See sections [3047—] 1 to [3047—] 3.

[3047—]5. **Same—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)

LOCAL BUILDING AND LOAN ASSOCIATIONS.

3049. Limits of operations.—Every such corporation hereinafter formed, by provision in its certificate of incorporation or by-laws, within six months after the Revised Laws take effect, 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 proceeding, forfeit all corporate rights and franchises, except to close its affairs. Provided, that any association now incorporated may enlarge its territory by making application to the public examiner, specifying the added counties in which it desires to do business, and on receiving the approval of the public examiner shall be duly authorized to do business in those counties, which shall not exceed five in number. (R. L. § 3049, as amended by Laws 1909, c. 164, § 1.)

GENERAL BUILDING AND LOAN ASSOCIATIONS.

3060. Securities deposited with examiner.—Every such association having not less than two 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 security 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. (R. L. § 3060, as amended by Laws 1909, c. 24, § 1.)

3066. Report to public examiner.

Laws 1901, c. 233, § 20, cited in *Tillinghast v. United States Saving & Loan Co.*, 99 Minn. 62, 108 N. W. 472.

CERTAIN INVESTMENT COMPANIES.

[3067—]1. **Application of certain provisions.**—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)

Historical.—"An act to provide for the supervision and control of investment companies not now under statutory regulation." Approved April 21, 1909.

[3067—]2. **Supervision, control, etc.**—All provisions of said chapter 58 of Revised Laws of Minnesota, 1905, with respect to the supervision, control and conditions upon which building and loan associations are permitted to do business in this state are hereby made applicable to and imposed upon persons, co-partnerships, associations or corporations described in the first section of this act, the same as though they were building and loan associations under said act, so far as such supervision, control and condition can be made applicable to the particular business done by such person, co-partnerships, associations or corporations; provided, however, that the annual fees required of foreign corporations under this act shall be the same as is required of general building and loan associations doing business in this state based upon the amount of assets involved in transactions in this state. ('09 c. 333 § 2)

[3067—]3. **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)

OTHER CORPORATIONS FOR PROFIT.

FARM MORTGAGE DEBENTURE COMPANIES.

[3072—]1. **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)

Historical.—"An act entitled an act authorizing the formation of corporations to loan money on farm mortgages, to deal in mortgages on farm lands, and to issue and negotiate debentures thereon." Approved March 31, 1905.

Section 26 repeals inconsistent acts.

[3072—]2. **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. (Laws 1905, c. 93, § 2, as amended by Laws 1907, c. 238.)

[3072—]3. **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)

[3072—]4. **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)

[3072—]5. **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)

[3072—]6. **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 provided 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)

[3072—]7. **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 [3072—5] 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 [3072—6]; and until such reinvestment is

made the money received in payment 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)

[3072—]8. 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)

[3072—]9. 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)

[3072—]10. 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)

[3072—]11. 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)

[3072—]12. 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)

[3072—]13. 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)

[3072—]14. 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)

[3072—]15. **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)

[3072—]16. **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., but no debentures shall be issued on such mortgages. ('05 c. 93 § 16)

[3072—]17. **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 [3072—7] 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 [3072—7]. 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)

[3072—]18. **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)

[3072—]19. **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)

[3072—]20. **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)

[3072—]21. **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)

[3072—]22. **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)

[3072—]23. **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)

[3072—]24. **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)

[3072—]25. **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)

CO-OPERATIVE ASSOCIATIONS.

[3073—]1. **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 corpora-

tions, except so far as the same may be limited or enlarged by this act. (G. S. 1894, § 2903, as amended by Laws 1905, c. 276, § 1.)

Historical.—"An act to amend section 2903 of General Statutes of the State of Minnesota for the year 1894, providing for the organization of co-operative associations and defining their powers." Approved April 18, 1905.

Said section 2903 was Laws 1870, c. 29, § 1, which act was repealed by R. L. § 5523; the provisions of said section 1 being incorporated in part in section 3073. So far as the amended section above set forth differs from the Revised Laws, it is to be construed, by virtue of section 5504, as amendatory or supplementary.

See section next following.

[3073—]2. 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, as amended by Laws 1905, c. 313, § 1.)

Historical.—"An act to amend section 2903 of the General Statutes of 1894 relating to the formation and incorporation of co-operative associations." Approved April 19, 1905.

See section next preceding, and note thereunder.

[3078—]1. Associations for sale of certain products.—That any co-operative association may be formed for the purpose of selling and otherwise disposing of any product 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 years. (Laws 1907, c. 293, § 1, as amended by Laws 1909, c. 456, § 1.)

Historical.—"An act to provide for the incorporation of co-operative associations, formed for the purpose of selling, or otherwise disposing of products of any co-operative manufacturing or agricultural association heretofore or hereafter organized under the provisions of this act," approved April 22, 1907 (Laws 1907, c. 293), as amended by Laws 1909, c. 456.

[3078—]2. Same—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)

[3078—]3. Same—Stock in other corporations.—Any corporation heretofore or hereafter organized under the provisions of section 3073, Revised Laws of 1905, 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. (Laws 1907, c. 293, § 3, as amended by Laws 1909, c. 280, § 1.)

For Laws 1905, cc. 276, 313, see sections [3073—]1, [3073—]2

AGRICULTURAL SOCIETIES.

STATE AGRICULTURAL SOCIETY.

3080. Membership.

See section [3080—]1, and note thereunder.

[3080—]1. Same.—Its membership, except honorary, shall be confined to citizens of Minnesota and shall hereafter be composed as follows:

First—Three delegates to be chosen annually by each of the county and district agricultural societies in this state, and in case any such society shall fail or neglect to appoint such delegates, then and in that event the president, secretary and treasurer of such society shall by virtue of their offices be members of the said State Agricultural society. Provided, that if no county agricultural society exists in any county, or any such society shall fail to hold an annual fair, and any city therein shall maintain annually a street fair devoted to agricultural interests, then any three delegates chosen by any such street fair association, or if such street fair association fails or neglects to choose such delegates then the president, secretary and treasurer of said street fair association shall by virtue of their offices be members of the State Agricultural society; and provided further, that when there is in any county more than one such fair association, the senior association shall be entitled to such membership; and provided further, that all such societies and associations shall maintain an active existence and hold annual fairs

and shall have paid out each year the sum of \$300 in premiums and have an annual membership of twenty-five or more members.

Second—One delegate from each county in the state, in which no agricultural society or street fair association exists, which delegate the county commissioners of each such county are authorized to appoint.

Third—Honorary members who by reason of eminent services in agriculture or horticulture, or in the arts and sciences connected therewith, or of long and faithful services in the society, or of benefits conferred upon it may, by a two-thirds vote at any of its annual meetings be elected as such.

Fourth—Two delegates selected by, and the presidents *ex-officio*, of the following societies and associations: State Horticultural society, the State Amber Cane society, the State Dairymen's association, the State Forestry association, the State Poultry association, the State Beekeepers' association, and the Minnesota Stock Breeders' association, and any other state society or association within the state, having for its object the promotion of any branch of agriculture, horticulture, stock raising, or improvement or mechanics related to agriculture or horticulture.

Fifth—The members of the governing board of said society and its officers shall by virtue of their offices as such be and become members of said society. (Laws 1903, c. 126, § 3, as amended by Laws 1905, c. 307, § 1.)

Historical.—"An act to amend section three of chapter one hundred and twenty-six of the General Laws of Minnesota for the year nineteen hundred and three, relating to the membership of the State Agricultural society." Approved April 19, 1905.

Laws 1903, c. 126, was repealed by R. L. § 5546; the provisions of section 3 thereof being incorporated in section 3080. So far as the amended section above set forth differs from the Revised Laws, it is to be construed, by virtue of section 5504, as amendatory or supplementary.

COUNTY AGRICULTURAL SOCIETIES.

3097. Formation—General powers.—An agricultural society may be formed by citizens of any county or two or more counties jointly, but only one such society shall be organized in any county; provided, however, that if any such county agricultural society has been incorporated for a period of at least six years, and during that time has not held, or assisted in holding, any county agricultural fair, then another county agricultural society may be organized and incorporated in such county; and such newly formed agricultural society, when incorporated, shall be entitled to receive the state aid in the manner, and on the terms and conditions, provided by section 3098, Revised Laws, 1905. Such society shall have jurisdiction and control of the grounds upon which it holds its fairs, and of the streets and grounds adjacent thereto during such fair, so far as may be necessary to preserve good order, and it may make all the rules and regulations necessary for such purpose. Every person who shall wilfully violate any such rule or regulation during the days of a fair shall be guilty of a misdemeanor. (R. L. § 3097, as amended by Laws 1909, c. 416, § 1.)

SOCIAL AND CHARITABLE CORPORATIONS.

GENERAL PROVISIONS.

3102. For what purposes formed.—Any three or more persons may form a corporation for religious, social, moral, education, scientific, benevolent, fraternal, or reformatory purposes, or for providing, erecting, owning, leasing, furnishing and managing any building or buildings, hall or apartments, for the use of any society, so-

cieties, body or bodies, incorporated or unincorporated, organized for any of said purposes, or for the purpose of improving or beautifying any public roads, streets, grounds, parks, waters, or waterfronts, provided, that any such improvement shall be carried out under the supervision of a public official having control of public property to be so improved. (R. L. § 3102, as amended by Laws 1907, c. 94, and Laws 1909, c. 483, § 1.)

[3107—]1. 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)

Historical.—"An act authorizing educational institutions to take, hold, receive and enjoy property and money heretofore or hereafter bequeathed, devised, conveyed or transferred to it, and to hold, use and enjoy the profits, rents and income therefrom, and repealing all acts or parts of acts inconsistent therewith." Approved March 24, 1905.

Section 2 repeals inconsistent acts.

CORPORATIONS TO ADMINISTER CHARITIES.

3111. 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 visitorial powers over its officers and affairs. Provided, that any two or more corporations now or hereafter organized under the provisions of section 3110, 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, as amended by Laws 1909, c. 222, § 1.)

CHAMBERS OF COMMERCE, ETC.

3112. Formation—Purposes.

In general.—The Duluth Board of Trade, as constituted under its charter and rules, held not a conspiracy or combination in restraint of trade, in violation of Laws 1899, c. 359, or R. L. § 5168. *State v. Duluth Board of Trade*, 107 Minn. 506, 121 N. W. 395.

SOCIETIES FOR PREVENTION OF CRUELTY.

[3125—]1. **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)

Historical.—“An act to prevent wrongs to children and dumb animals and to establish a bureau of child and animal protection.” Approved April 18, 1905.

[3125—]2. **Same—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)

[3125—]3. **Same—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)

[3125—]4. **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)

[3125—]5. **Same—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)

[3125—]6. **Same—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)

FRATERNAL SOCIETIES.

3129. How organized.—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. Kato-

licka 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, and any post of the Grand Army of the Republic, 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. § 3129, as amended by Laws 1909, c. 42, § 1.)

See sections [3132—]1 to [3132—]10, and note under section [3132—]1.

3130. 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, as amended by Laws 1907, c. 369, § 1.)

[3132—]1. 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)

Historical.—“An act providing for the incorporation of grand and subordinate lodges of the Degree of Honor, Ancient Order of United Workmen, located in the State of Minnesota.” Approved February 3, 1905.

So far as the provisions of this act differ from the Revised Laws, they are to be construed, by virtue of section 5504, as amendatory or supplementary.

See section 3129.

[3132—]2. Same—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 regu-

lar 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 hereinafter 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)

[3132—]3. **Same—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)

[3132—]4. **Same—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)

[3132—]5. **Same—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)

[3132—]6. **Same—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)

[3132—]7. **Same—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)

[3132—]8. **Same—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)

[3132—]9. **Same—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 determine, 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)

[3132—]10. **Same—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)

[3132—]11. 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)

Historical.—"An act to provide for the incorporation of subordinate aeries of the Fraternal Order of Eagles." Approved April 23, 1907.

[3132—]12. Same—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)

[3132—]13. Same—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)

[3132—]14. Same—Corporate seal.—The seal of such aerie shall be its corporate seal. ('07 c. 364 § 4)

[3132—]15. Same—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)

[3132—]16. Same—Amendment of charter.—This charter may be amended as other incorporations, save that the amendment need not be published. ('07 c. 364 § 6)

[3132—]17. Scottish Clans—Power 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)

Historical.—"An act to provide for the incorporation of subordinate clans of the Order of the Scottish Clans located in the state of Minnesota." Approved April 7, 1909.

[3132—]18. Same—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)

[3132—]19. Same—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)

[3132—]20. Same—Certificate filed—Powers of corporation.—Upon filing such certificate in the office of the register of deeds, such Clan shall become a body incorporate 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)

[3132—]21. Same—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)

[3132—]22. Same—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)

RELIGIOUS CORPORATIONS.

[3133—]1. 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. ('07 c. 60 § 1)

Historical.—"An act empowering certain religious corporations to receive, hold and convey property." Approved March 25, 1907.

3148. 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, as amended by Laws 1907, c. 18.)

YOUNG MEN'S CHRISTIAN ASSOCIATIONS.

[3168—]1. **Young Women's Christian Associations.**—That all of the provisions of sections 3164 to 3168, 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)

Historical.—"An act with reference to the incorporation of Young Women's Christian Associations." Approved March 5, 1909.

ACTIONS RESPECTING CORPORATIONS.

3173. Sequestration—Order of Distribution.

Scope of jurisdiction.—Controverted questions of fact may be submitted to a jury for determination. State ex rel. Pope v. Germania Bank of St. Paul, 103 Minn. 129, 114 N. W. 651.

The court initiating insolvency proceedings by appointment of a receiver or assignee retains exclusive jurisdiction thereof and of the receiver or assignee for all purposes of adjusting in the same proceeding all conflicting interests, and all matters arising out of or connected with the estate, including the settlement of the accounts of the receiver, and surcharging the same on account of losses occurring by reason of his negligence or mismanagement. State ex rel. Pope v. Germania Bank of St. Paul, 103 Minn. 129, 114 N. W. 651.

See note under section 2998.

Statute of limitations.—The mere commencement of an action by a judgment creditor under G. S. 1878, c. 76, § 9, for the sequestration of the property of a debtor and the appointment of a receiver, did not stop the running of the statute of limitations against the claims of other creditors. Each creditor might have brought an independent action upon his own claim, although the court might thereafter have consolidated all the actions upon an application properly made.

The exhibition of a claim and the filing of a complaint by a creditor in pursuance of an order of court was equivalent to commencement of an independent action, and tolled the statute of limitations as of that date. A claim cannot be filed which at the time of its exhibition is barred by the statute. *Downer v. Union Land Co.*, 103 Minn. 392, 115 N. W. 207.

3175. 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 bond holders, stock holders, 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, as amended by Laws 1909, c. 276, § 1.)

Operation in general.—This section applies to stock corporations and to certain corporations without capital stock. The petition may be made by a majority of the members of a nonstock corporation, or by the holder or holders of the majority of the stock of a stock corporation. *Beyer v. Woolpert*, 99 Minn. 475, 109 N. W. 1116.

3184. Enforcement of stockholders' liability.

Laws 1899, c. 272, cited in *Lagerman v. Casserly*, 120 N. W. 1086.

Constitutionality.—The contractual obligations arising out of G. S. 1894, c. 76, adopted to enforce the liability of stockholders prescribed by Const. art. 10, § 3, are not impaired by Laws 1899, c. 272, enacted to make the remedy more effectual, because, while under the old law stockholders who could not be reached by personal service were immune from liability, under the new law they need not necessarily be served with process in the action in which the assessment is made, or because the expenses incident to the enforcement of the liability in other states and against other parties are taken into consideration in estimating the amount of the assessment. Due process of law is not denied a stockholder in a domestic corporation by Laws 1899, c. 272, because stockholders need not necessarily be served with process in the action in which the assessment is made. *Bernheimer v. Converse*, 206 U. S. 516, 27 Sup. Ct. 755, 51 L. Ed. 1163.

Repeal of prior laws.—Laws 1899, c. 272, did not repeal G. S. 1878, c. 76, §§ 16, 17. It merely provided a cumulative remedy for the enforcement of the superadded statutory liability of stockholders. The two remedies being concurrent, the statute of limitations commenced to run against the cause of action at the time when either remedy became available for the enforcement of the cause of action. The Revised Laws did repeal G. S. 1878, c. 76, §§ 16, 17. *Willius v. Albrecht*, 100 Minn. 436, 111 N. W. 387, 112 N. W. 862, followed in *Willius v. Beyer*, 100 Minn. 548, 111 N. W. 388.

3185. Hearing upon petition.

Laws 1899, c. 272, § 3, cited in *Neff v. Lamm*, 99 Minn. 115, 108 N. W. 849. See notes under sections 3186, 3187.

3186. Contents of order—Conclusiveness.

Conclusiveness of assessment.—Where the receiver filed a claim in the probate court against the estate of a deceased stockholder for an assessment, it was held that, inasmuch as the issue whether or not the corporation was of such a class that its stock was subject to assessment was not affirmatively asserted by

the answer nor raised during the trial; and, inasmuch as no objection was made to the court making the assessment, the objection by the executor to the claim on the ground that the receiver failed to introduce evidence to prove the assessable character of the stock was without merit. *Neff v. Lamm*, 99 Minn. 115, 108 N. W. 849.

3187. Actions for assessments, how and where prosecuted.

What constitutes "action."—Presentment of a claim against a deceased stockholder for payment of an assessment was an action, within Laws 1899, c. 272, § 6. *Neff v. Lamm*, 99 Minn. 115, 108 N. W. 849.

Transfer of stock—Action against transferrer.—Where a stockholder transferred his stock after his liability in favor of a creditor had accrued, he was liable in an independent action, and it was not necessary to make the transferee a party. If defendant desired to have him made a party upon the ground that execution might be enforced against him in the first instance, because of his primary liability, application should have been made for such purpose. *Tiffany v. Giesen*, 96 Minn. 488, 105 N. W. 901.

Suit in foreign jurisdiction.—A chancery receiver of a domestic corporation upon whom, as a quasi assignee and representative of the creditors, is conferred by Laws 1899, c. 272, the authority to maintain an action to enforce the liability of stockholders, may sue in a foreign jurisdiction. *Bernheimer v. Converse*, 206 U. S. 516, 27 Sup. Ct. 755, 51 L. Ed. 1163.

Such receiver is entitled to sue in a foreign jurisdiction in a court having jurisdiction of the parties and subject-matter. *Converse v. Mears* (C. C.) 162 Fed. 767.

See note under section 3184.

— **Limitation of action.**—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 the receiver can sue upon the assessment after the stockholder has failed to pay as required by an order of court. *Bernheimer v. Converse*, 206 U. S. 516, 27 Sup. Ct. 755, 51 L. Ed. 1163.