

# GENERAL STATUTES

OF

# MINNESOTA

1913

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to the partnership affairs and the management of its concerns. Any partner who shall be guilty of fraud in the affairs of the partnership shall be guilty of a misdemeanor. (2837)

## CHAPTER 58

### CORPORATIONS

#### GENERAL PROVISIONS

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

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

Cited (107-506, 121+395, 23 L. R. A. [N. S.] 1260; 113-459, 130+18).

**6134. Terms defined**—The term "private corporation," as used in this chapter, shall include every company, association, or body endowed by law with any corporate power or function whatsoever, except such as are formed solely for public and governmental purposes, which shall be deemed public corporations. And, when not otherwise indicated by the context, the word "corporation" shall mean a private corporation. The term "certificate of incorporation," whenever used in this chapter in reference to corporations formed prior to the taking effect of the Revised Laws, shall be construed as meaning articles of incorporation. (2839)

Notwithstanding this section, action may be maintained under § 8175 against a municipal corporation (113-55, 129+158, 33 L. R. A. [N. S.] 339, Ann. Cas. 1912A, 216).

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

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

See note under § 6137.

**Right to occupy streets, etc.**—The crossing of streets and alleys incidental to constructing a railroad from place to place does not constitute occupancy of such streets or alleys for purpose of operating a railway thereon, within this section (101-132, 112+13; 108-407, 122+486, 133 Am. St. Rep. 455, 17 Ann. Cas. 550; 117-14, 134+302).

A railway company, organized under G. S. 1878 c. 34 tit. 1, before or since 1893, is not authorized to acquire by condemnation the public easement in a street within a city or village for a railway along such street. A franchise must first be obtained (113-459, 130+18).

Permission of municipality (81-140, 159, 83+527, 86+69, 53 L. R. A. 175).

See note under § 6236.

**Water power—Diversion of navigable waters**—Corporation organized under G. S. 1894 c. 34 not authorized as incident to construction of canal and creation of water power, to divert waters from navigable lakes and streams so as to interfere with navigation (97-429, 107+405, 5 L. R. A. [N. S.] 638, 7 Ann. Cas. 1182).

A public service corporation, though authorized to condemn private property for the construction of canals and reservoirs for generation of electric power, may not exercise such power

when enterprise contemplates interference with navigability of navigable waters, unless such interference is expressly authorized by statute (101-197, 112+395, 11 L. R. A. [N. S.] 105).

Corporation organized to improve a stream for "slack-water, etc." not authorized to collect tolls (75-335, 340, 77+989).

**6137. State and local control—Eminent domain—**The state shall at all times have the right to supervise and regulate the business methods and management of any such corporation, and from time to time to fix the compensation which it may charge or receive for its services; and every such corporation obtaining a franchise from a city or village shall be subject to such conditions and restrictions as from time to time may be imposed upon it by such municipality. Every such corporation may acquire, by right of eminent domain, such private property as may be necessary or convenient for the transaction of the public business for which it was formed: Provided, that no street railway company shall have or exercise such right within the limits of any city or village. (2842)

**Eminent domain—For what purposes—**Authority to condemn land appropriated to another public use (76-334, 79+315). Grant of right of eminent domain constitutional (18-155, 139). Railroad can condemn land only for railroad purposes (20-28, 19). What constitutes a public use (41-461, 43+469, 6 L. R. A. 111; 43-527, 46+75). In determining what lands are "necessary or convenient" corporations are subject to the control of the courts (37-164, 33+701). Generation of electricity by water power for distribution and sale to general public on equal terms, subject to governmental control, is a public enterprise, and property so used is devoted to public use. But creation of a water power and a water power plant for purpose of "supplying water from the wheels thereof" to public is private enterprise, in aid of which the power of eminent domain cannot be exercised (97-429, 107+405, 5 L. R. A. [N. S.] 638, 7 Ann. Cas. 1182).

Sections 6136, 6137, 6246, 6247, conferring the power of eminent domain on public service corporations for specified purposes, authorize the exercise of power of eminent domain in aid of construction of canals and reservoirs to create and distribute electric power for general public use (101-197, 112+395, 11 L. R. A. [N. S.] 105).

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

See section 6246, and note thereunder.

**"Public business"**—Includes construction of works for supplying public with water, light, heat, and power (101-197, 112+395, 11 L. R. A. [N. S.] 105).

**Governmental control—**Rights of city to require telephone wires to be placed under ground (81-140, 83+527, 86+69, 53 L. R. A. 175). Actual exercise of state's power of regulation and control is not condition precedent to use of power of eminent domain (101-197, 112+395, 11 L. R. A. [N. S.] 105).

**Franchise not condition precedent—**Public service corporation, authorized to furnish water, light, heat, and power for public and private use, need not first obtain franchise from municipality or a contract to furnish city or village with its products before entitled to exercise power of eminent domain (101-197, 112+395, 11 L. R. A. [N. S.] 105).

**Construction of articles—**Where articles were in compliance with G. S. 1894 c. 34 tit. 1, corporation entitled to exercise right of eminent domain, though the incorporators declared in articles that they proposed to incorporate under title 2. That organizers denominated proposed improvement "street railway" was not controlling, since it conclusively appeared that it was not the purpose to construct and operate street, but interurban, railways from place to place (101-132, 112+13). See (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 (100-214, 110+1128).

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

**6139. Manufacturing and mining companies—**Corporations may be formed:

1. For carrying on any kind of manufacturing or mechanical business not incompatible with an honest purpose;

2. For the mining, smelting, reducing, refining, or working of ores or minerals, for working coal mines or stone quarries, or for buying, working, sell-

ing, or dealing in mineral lands, or for any one or more of the purposes mentioned in this paragraph. (2844)

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

**6141. Same—Statement to be filed with department of banking**—That before any corporation which heretofore has been organized, or which hereafter may be organized under the laws of the state for any of the purposes mentioned in section 2845 of the Revised Laws of Minnesota of 1905 [6140], shall sell, offer for sale or negotiate any bonds, notes, certificates of indebtedness or other evidences of debt which are secured to be paid by the deposit or pledge with a trustee of any notes or other obligations secured by mortgages on real estate in Minnesota or elsewhere, or by the deposit or pledge of other evidences of indebtedness owned, issued, negotiated or guaranteed by it, such corporation shall file in the office of the department of banking of this state, a statement showing the aggregate amount of such bonds, notes, certificates of indebtedness or other evidences of debt then proposed to be sold or offered for sale, the name of the trustee to whom the securities for the payment of the same are to be pledged or assigned, together with a statement of the face value and such corporation's estimate of the actual value of the securities so to be pledged or assigned. ('13 c. 442 § 1)

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

**6143. Same—Duties and powers of superintendent of banks—Fees**—Upon the filing by any such corporation of any such statement, if a trust company organized under the laws of this state is not designated as such trustee, then the superintendent of banks shall inquire into and determine the financial responsibility of the person, firm or corporation proposed as such trustee, and he may approve or disapprove the trustee so named, and unless such trustee be approved by him it shall not be lawful for any such corporation transacting the business described in section one (1) [6141] of this act to sell or offer for sale any such bonds, notes, certificates of indebtedness or other evidences of debt.

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

Such corporation shall pay into the state treasury the same fees for such examinations as trust companies are required to pay under section 14 of chapter 201 of the Laws of 1909 [4635]. ('13 c. 442 § 3)

**6144. Trading companies, etc.**—Corporations may be formed for any of the following purposes:

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

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

3. Buying, selling, and improving lands and tenements. (2846)

Meaning of "other lawful business" (40-508, 42+481).

**6145. Financial corporations**—Corporations may be formed for any one of the following purposes:

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

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

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

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

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

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

**6147. How organized—Certificate**—Any three or more persons may form a corporation for any of the purposes specified in this subdivision by complying with the conditions hereinafter prescribed. They shall subscribe and acknowledge a certificate specifying:

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

2. The period of its duration, if limited.

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

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

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

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

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

**6148. Filing and record of certificate**—The certificate of every such corporation shall be filed for record with the secretary of state, who, if he finds that it conforms to law, and, if a financial corporation, has indorsed thereon the approval of the public examiner, or, if an insurance company, that of the insurance commissioner, and, in every case, that the required fee has been paid, shall record the same and certify that fact thereon. After such record, such certificate shall be filed for record with the register of deeds

of the county of the principal place of business as specified in the certificate. (2850)

Liability of stockholders for failure to file (61-375, 63+1079).  
Cited (139+135).

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

Effect of failure to file proof with secretary of state (49-99, 51+663; 67-194, 69+810. See 37-91, 33+219).

**6150. 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)

**6151. General powers**—Every corporation formed under the provisions of this chapter shall have power:

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

May incur debts and give negotiable paper therefor (23-6; 28-291, 9+799, 41 Am. Rep. 285). Liability on accommodation paper (41-84, 42+926, 4 L. R. A. 745, 16 Am. St. Rep. 671; 68-129, 70+1085).

**6152. 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)

**6153. Additional powers**—In addition to the powers enumerated in § 6151, every such corporation, except the financial corporations hereinafter in this chapter specified, shall have power to issue more than one class of stock. And any corporation organized under § 6139 may take, acquire and hold stock in any other corporation, if a majority of the stockholders shall elect. (2853)

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

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

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

6156. **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, amended '07 c. 468 § 2)

Street railroad company (155 Fed. 989; 215 U. S. 417, 30 Sup. Ct. 118, 54 L. Ed. 259).

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

6158. **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 [6156]. 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 resolutions shall have the effect of continuing the period of the duration of such corporation for the time therein stated. ('09 c. 36 § 1)

6159. **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)

6160. **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 two 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 further 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 [6156]. 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. ('11 c. 22 § 1)

**6161. 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. ('11 c. 22 § 2)

**6162. 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)

Section 5 repeals inconsistent acts, etc.

**6163. 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)

**6164. 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)

**6165. 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)

**6166. Corporations for other than pecuniary profit—Renewal in certain cases—**Any corporation heretofore organized, for other than pecuniary profit, under the laws of this state, whose period of duration has expired less than three years prior to the passage of this act, and, through inadvertence or otherwise, the same has not been renewed, and such corporation has continued to transact its business as before the expiration of such period, may,

at any time during the three years allowed by law for winding up its affairs, renew its corporate existence from the date of the expiration of its period of duration for an additional period not exceeding the period of thirty (30) years from and after the time of its expired period of duration, with the same force and effect as if renewed prior to the expiration of its said term of existence, by adopting a resolution, by a three-fourths vote of its members or stockholders, expressing such proposed extension, and by filing or publishing the same in the same manner as now provided for filing and publishing of original articles of incorporation, and by paying into the state treasury the same incorporation fees, if any, as now provided by law for original articles of incorporation of any such corporation.

Provided, that such proceedings to obtain such extension shall be taken within six (6) months after the passage of this act, and provided further, that this act shall not apply to any corporation the charter of which has been declared forfeited by the final judgment of any court of competent jurisdiction in this state. ('11 c. 58 § 1)

**6167. 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)

**6168. 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 September, 1901, 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, said corporation shall have up to and including the 1st day of July, 1911, 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. ('11 c. 244 § 1)

**6169. 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 March, 1911, 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, 1913, to adopt a new resolution to extend its corporate existence, and to record the same in the office of the register of deeds of the county where said corporation is located, and secretary of state, and to have the same duly published as provided by law, and upon so doing the extension of the existence of said corporation shall be in all respects legal and valid.

Provided, that the provisions of this act shall not apply to any action or proceeding now pending in any of the courts of this state. ('13 c. 213 § 1)

**6170. 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 May, 1912, 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, said corporation, shall have up to and including the 1st day of June, 1913, 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 proceedings now pending in any of the courts of this state. ('13 c. 275 § 1)

**6171. Business, how managed**—The business of every such corporation, except savings banks, shall be managed by a board of at least three directors, elected by ballot by and from the stockholders or members; that of savings banks, by a board of at least seven trustees, residents of the county of its location, each of whom, before being authorized to act, shall file a written acceptance of the trust. A majority of the directors or trustees shall constitute a quorum for the transaction of business. (2858)

Authority of directors must be exercised solely in pursuance of the company's chartered purposes and for the benefit of the stockholders (31-140, 149, 16+854. See 35-146, 151, 27+917, 59 Am. Rep. 321; 35-163, 164, 27+922; 39-1, 2, 38+772, 12 Am. St. Rep. 608). May act only collectively as a board and not individually (26-43, 1+261).

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

See § 6347.

A corporation legalized hereunder was changed from a de facto to a de jure corporation; but the law under which it was organized still controlled as to its powers (115-451, 133+69).

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

**6174. Regulation as to voting**—Unless otherwise provided in the certificate or by-laws, at every meeting each stockholder or member, resident or non-resident, shall be entitled to one vote in person, or by proxy made within one year or other time specially limited by law, for each share or other lawful unit of representation held by him in his individual, corporate, or representative capacity, but no stock shall be voted on at any election within twenty days after its transfer on the books of the corporation. (2861)

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

**6176. Transfer of stock**—The delivery, by the rightful owner or by one by him intrusted therewith, to a bona fide purchaser or pledgee for value, of a certificate of stock, duly transferred in writing by the holder personally, or

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

Transfers of stock are good between the parties without entry in the stock books (26-43, 1+261; 38-85, 35+577, 8 Am. St. Rep. 643; 44-183, 187, 46+337; 50-36, 52+268, 36 Am. St. Rep. 623; 68-121, 70+1079; 71-123, 73+713), and are good as against a subsequent attachment (50-36, 52+268, 36 Am. St. Rep. 623). Provisions of section for benefit of corporations (26-43, 1+261; 44-183, 46+337; 61-307, 312, 63+721), and possibly of its creditors (61-307, 312, 63+721). Effect of certificate of stock as evidence of ownership and right to transfer. How far binding on corporation (44-183, 46+337). What constitutes a stock book (65-324, 332, 68+50, 60 Am. St. Rep. 480). Transfer held sufficient to render transferee liable to corporation for calls on stock (61-307, 63+721). Burden of proof to show transfer on stock books (63-405, 410, 65+661, 663). Equitable owner may compel transfer on books (68-121, 70+1079). Stock is personal property (60-362, 363, 62+396). Lien of corporation on stock (35-511, 29+200; 68-121, 70+1079; 71-38, 73+635, 70 Am. St. Rep. 309; 71-123, 73+713).

Creates lien on stock in favor of corporation, which may be foreclosed in equity (113-27, 128+1112, Ann. Cas. 1912A, 51).

Where shares are transferred as collateral security, and they are so registered transferee is not liable as stockholder for debts of corporation (106-85, 118+55, 19 L. R. A. [N. S.] 249).

The provision in 1870 c. 29, applicable to co-operative associations, that no person shall be allowed to become a shareholder except by consent of the managers, is valid, and is not repealed by this section (115-451, 133+69).

See note under § 6177.

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

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

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

A transferee, who never was a registered stockholder, nor held himself out as stockholder, nor interfered with his transferrors' liability, nor exercised a stockholder's privileges, nor participated in the management, held not liable under Const. art. 10 § 3 (186 Fed. 7, 108 C. C. A. 109).

**6178. Liability of stockholders—**Every stockholder shall be personally liable for corporate debts in the following cases:

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

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

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

**1. In general—**Nature of action defined (34-323, 329, 25+639). Liability of stockholders several and contractual (73-454, 76+254). Constitutional liability unenforceable under this section (61-873, 63+1024). Action by single creditor will lie against corporation and one or

more stockholders (16-368, 327; 34-323, 25+639; 56-180, 57+468). Corporation not a necessary party when judgment has been obtained against it and execution returned unsatisfied (44-478, 47+155). Cited (70-292, 73+149). See 97-190, 106+900).

**2. Subd. 1**—Inapplicable to foreign corporations (64-326, 67+60). See 139+606. Claim provable in probate court (44-478, 47+155; 66-246, 68+1063). In absence of fraud liability on transferee of stock, not on transferor (56-180, 57+468; 70-292, 73+149). When a receiver has been appointed for an insolvent company individual creditor cannot enforce liability (48-361, 51+119).

**3. Subd. 2**—Refers to failure to comply with §§ 6148, 6149 (61-375, 63+1079). Stockholders of corporation de facto not chargeable as partners in absence of fraud (75-196, 77+822).

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

See note under preceding section.

**6179. Property of stockholders levied on, when**—The private property of a stockholder shall not be levied on for any liability specified in § 6178, unless both he and the corporation are duly served with process in the action, and the issue involving his individual liability is raised and determined therein; and individual property shall never be levied on until all corporate property which can be found has been exhausted. (2866)

See cases under § 6178.

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

**6180. Proceedings of officer levying**—The officer holding an execution which may be so levied on private property shall first demand payment of the president, secretary, or other acting officer of the corporation, or who was one of its last acting officers; and, if he fails to forthwith satisfy the execution or point out corporate property upon which it may be levied, the officer shall indorse thereon the fact of such demand and failure to pay, and then levy the same upon individual property of any stockholder impleaded and served as aforesaid. Such levy may be made to satisfy any balance due upon an execution, after levy upon corporate property, or part payment from corporate funds. (2867)

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

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

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

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

Right of stockholder to inspect the books (110-193, 124+971).

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

Necessity of office in this state (58-330, 59+1048, 49 Am. St. Rep. 516).

**6185. Amendment of certificate**—The certificate of incorporation of any corporation now or hereafter organized and existing under the laws of this state may be amended so as to change its corporate name, or so as to increase its capital stock, or so as to change the number and par value of the shares of its capital stock, or in respect of any other matter which an original certificate of a corporation of the same kind might lawfully have contained, by the adoption of a resolution specifying the proposed amendment, at a regular meeting or at a special meeting called for that expressly stated purpose, in either of the following ways: (1) by majority vote of all its shares, if a stock corporation; or if not, (2) by majority vote of its members; or, in either case (3) by majority vote of its entire board of directors, trustees, or other managers within one year after having been thereto duly authorized by specific resolution duly adopted at such a meeting of stockholders or members, and by causing such resolution to be embraced in a certificate duly executed by its president and secretary, or other presiding and recording officers, under its corporate seal, and approved, filed, recorded, and published in the manner prescribed for the execution, approval, filing, recording, and publishing of a like original certificate. (R. L. § 2871, amended '13 c. 247 § 1)

Previously amended by 1911 c. 348.

51-263, 53-632. See 32-284, 20+225; 35-155, 27+924; 37-13, 32+787; 178 Fed. 130; 192 Fed. 945.

Cited (139+135).

**6186. 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. ('97 c. 59, amended '05 c. 304 § 1)

**Historical**—1897 c. 59 was repealed by § 9452. So far as the above section differs from the Revised Laws it is to be construed, by virtue of § 9398 as amendatory or supplementary.

**6187. Increase of railway stock, how authorized**—Before any railroad corporation shall increase its capital stock, it shall apply to the railroad and warehouse commission in writing, setting forth the amount of the proposed increase and the purpose for which it is desired. The commission shall thereupon fix a time and place for hearing the application, and require such notice thereof to be given as they deem reasonable. Upon the hearing the commission shall make findings of the facts established in reference to the proposed increase, and, if they allow it, shall prescribe the manner in which and the terms upon which the same shall be made. If they disapprove such increase, the reasons therefor shall be stated in their next annual report. No capital stock shall be issued by any railway corporation until the full amount thereof has been paid to the corporation in money, labor, or materials actually used in the construction of its road, nor shall the capital stock of any such corporation be increased except by special authority of such railroad and warehouse commission. (2872)

This section does not violate Const. Minn. art. 1 § 11 or Const. U. S. art. 1 § 10. It does violate Const. art. 3 § 1 (100-445, 111+289, 10 L. R. A. [N. S.] 250).

**6188. 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 noth-

ing in this section shall apply to corporations organized for the purpose of conducting a chautauqua system of education, or to purely social corporations organized for maintaining curling clubs or associations, but the capital stock of any such last named corporation shall not exceed \$5,000.00. (R. L. § 2873, amended '07 c. 329; '09 c. 202 § 1)

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

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

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

**6191. Meeting called by members**—Whenever, by reason of the death, absence, or other legal disability of the officers of any corporation, there is no person authorized to call or preside at a legal meeting thereof, any three or more of its stockholders or members may call a meeting by giving to all the others the notice prescribed in § 6190, and designating therein some person to preside at such meeting until a chairman and clerk are chosen, who shall act during the absence of those authorized to act in one or both of those capacities, respectively. Any business may be done at such meeting which could be lawfully transacted at a regular meeting. (2876)

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

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

Agreement that two or more shares be issued for each share paid for void (67-224, 69+894). Corporation cannot issue its stock as fully paid up and sell the same for less than par and on such terms as its directors deem advisable (70-321, 73+189, 68 Am. St. Rep. 530. See 65-28, 67+652). Unauthorized stock not void so as to exempt holders from liability (67-

267, 276, 69+904). Payment for stock by note and mortgage as device to evade statute. Corporation bound (71-123, 73+713. See 71-38, 73+635, 70 Am. St. Rep. 309).

Shares issued and sold as full-paid, for less than par value, are not void; but agreement that they shall be treated as paid in full is voidable as to creditors of corporation (107-152, 119+951, 20 L. R. A. [N. S.] 1077).

Under G. S. 1894 §§ 2803, 2807, 3415, amendment of articles of manufacturing corporation adopted by majority, authorizing agreement whereby lenders of money should receive preferred stock possessing sole voting power and control until repayment in full, held valid, though all stockholders did not assent (192 Fed. 945).

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

**6195. New certificate**—Every corporation, on the surrender of a worn-out or defaced certificate, shall issue a new one therefor, without indemnity. Whenever an affidavit stating the loss or destruction of any certificate of its stock shall be presented to the directors of any corporation, they shall cause a new one to be issued to the owner thereof, but may, in their discretion, first require a satisfactory bond for not more than double the market value of the stock, to indemnify the corporation against any claim arising from the issue of such new certificate. On giving such bond the corporation shall issue such new certificate. If the evidence is clear that said certificate has been lost or destroyed, and has not been heard of for seven years, it shall be the duty of said corporation to issue a new certificate without indemnity, and the secretary or other proper officer shall make a report thereof in his register of shareholders, and said corporation shall be released from all damages in reference thereto. (2880)

Action against foreign corporation for duplicate certificate (59-332, 61+324, 50 Am. St. Rep. 407).

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

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

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

44-460, 47+151; 56-171, 176, 57+463; 56-180, 183, 57+468; 60-284, 62+332; 66-378, 384, 69+144; 66-441, 445, 69+331, 38 L. R. A. 415; 73-319, 324, 76+59; 74-98, 102, 76+1024; 85-302, 307, 88+977; 99-475, 109+1116.

See note under § 6636.

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

38-115, 35+725; 44-460, 463, 47+151; 56-180, 184, 57+468; 60-284, 289, 62+332, 83-314, 320, 86+409; 58 Fed. 651; 107-36, 119+492.

**6199. Extending time for certain corporations**—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)

**6200. Same**—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, and section 2883, Revised Laws 1905 [6198], 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. ('13 c. 26 § 1)

**6201. Reorganization of certain corporations legalized**—That in any case where any corporation, created under title 2, chapter 34, Statutes of Minnesota 1894, shall have, within the period of its corporate existence, paid all its liabilities and distributed its assets among its stockholders and cancelled all of its capital stock and thereafter through or under transfers or attempted transfers of its articles of incorporation a reorganization or attempted reorganization under such original articles of incorporation was effected or attempted, that any such reorganization or attempted reorganization is hereby declared to be legal and the said corporation so reorganized under such articles of incorporation is hereby vested with and is entitled to exercise and enjoy all the rights, privileges and franchises which belonged to or were vested in such corporation upon its original incorporation, subject, however, to any modification or amendment in the general laws of this state affecting corporations organized under said title 2, chapter 34, Statutes of Minnesota, 1894.

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

**6202. Diversion of corporate property**—The diversion of corporate property to other objects than those specified in the recorded and published certificate, where injury to any individual results therefrom, the declaring of dividends when the profits are insufficient to pay the same or when the funds remaining will not meet the corporate liabilities, or any intentional deception of the public or individuals in relation to its means or liabilities, are felonies, and every person guilty of any one of them shall be punished by a fine of not more than five thousand dollars, or by imprisonment in the state prison for not more than three years, or by both. (2884)

64-463, 465, 67+355.

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

**6204. Existing corporation, how to reorganize**—Any existing corporation whose certificate or charter does not conform to the requirements of this chapter may cause to be executed by its president and secretary a new or

amended certificate in compliance herewith, and, upon proceeding in all respects as is prescribed in the case of an original certificate of a corporation of the same kind, shall become entitled to all rights, benefits, and privileges conferred, and subject to all the requirements imposed, upon like corporations by the provisions of this subdivision, save that its rights in respect to property acquired or investments made prior to the taking effect of these Revised Laws shall be determined and governed by the laws in force at the date of such acquisition and investment, respectively. (2886)

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

#### FOREIGN CORPORATIONS

**6206. Office and agent in state**—Every foreign corporation for pecuniary profit, before it shall be authorized or permitted to transact any business in this state, or to continue business herein if already established, or to acquire, hold, or dispose of property within this state, or to sue or maintain any action at law or otherwise in any of the courts in this state, shall have and maintain a public office or place in this state for the transaction of its business, and shall appoint an agent, who shall reside in the county in which said public office is located, duly authorized to accept service of process, and upon whom service of process may be had in any action to which said corporation may be a party; and service upon such agent shall be due and personal service upon such corporation. An authenticated copy of the appointment of such agent shall be filed with the secretary of state, and a certified copy thereof shall be prima facie evidence of the appointment and authority of such agent. (2888)

84-497, 88+10; 85-121, 88+441; 88-456, 93+520, 97 Am. St. Rep. 538; 156 Fed. 545, 86 C. C. A. 435; 111-48, 126+410; 112-469, 128+570; 113-16, 128+1014; 113-405, 129+850; 118-1, 136+291.

See note under § 6208.

**6207. Filing articles—License fees**—Every such foreign corporation, now or hereafter doing business within this state, shall file with the secretary of state a copy of its charter or certificate or articles of incorporation, duly authenticated by the proper authority; and the principal or agent in this state of the said corporation shall make and file with the secretary of state, with the articles or certificate aforesaid, a statement duly sworn to showing the proportion of the capital stock of said corporation which is represented by its property located and business transacted in this state; and such corporation shall pay into the state treasury fifty dollars for the first fifty thousand dollars or fraction thereof of such proportion of capital stock, and the further sum of five dollars for every additional ten thousand dollars or fraction thereof of such proportion of capital stock; and no increase of the capital stock of any such corporation shall be valid or effectual until the corporation shall have paid into the state treasury five dollars for every ten thousand dollars or fraction thereof of such increase of said proportion of capital stock of such corporation. In determining the proportionate share of the capital stock upon which license fees shall be paid as aforesaid, the business of said corporation transacted in and out of this state during the year immediately preceding the filing of its articles or certificate as above provided for shall be considered and shall control. Upon compliance with the above provision by the corporation, the secretary of state shall issue to it a certificate that said corporation has complied with the laws of this state and is authorized to do business herein, stating the amount of its capital and of the proportion

thereof which is represented in this state, which certificate shall be prima facie evidence that said corporation is entitled to all the rights and benefits hereof and of the valid creation and organization of such corporation; and such corporation shall enjoy those rights and benefits for the period of thirty years from and after the date of such certificate, unless its corporate existence shall sooner cease; and the right and privilege of such corporation to so transact business and acquire and hold property in this state may be renewed for like periods by refiling its articles of incorporation with the secretary of state and by the payment of like fees whenever, pursuant to the provisions hereof, its said rights and privileges shall have expired. (2889)

156 Fed. 545, 86 C. C. A. 435; 111-48, 126+410; 112-469, 128+570; 113-16, 128+1014; 118-1, 136+291.

See note under § 6208.

**6208. Penalties—Exceptions—**Every such foreign corporation for pecuniary profit, now doing business in or which may hereafter do business in this state, which shall neglect or fail to comply with the foregoing conditions shall be subject to a fine of one thousand dollars to be recovered before any court of competent jurisdiction; and the secretary of state, as often as he may be advised that corporations are doing business in contravention hereof shall report such fact to the county attorney of the county in which the business of such corporation is located, and such attorney, as soon thereafter as practicable, shall institute proceedings to recover the fine aforesaid, which fine shall be paid into the treasury; and no corporation which shall fail to comply with the foregoing provisions shall maintain any suit or action, either legal or equitable, in any of the courts of this state, upon any demand, whether arising out of contract or tort. Provided, that nothing herein shall be construed as releasing any such corporation from complying with any provision of the existing laws of this state; and provided, further, that these provisions shall not apply to corporations engaged in an exclusively manufacturing business in this state; nor to drummers or traveling salesmen soliciting business in this state for corporations which are entirely non-resident; nor to any corporation engaged only in the business of loaning money or investing in securities in this state, including all business incidentally growing out of the same and the handling of such real estate and other property as may be taken by foreclosure or otherwise in liquidation of such loans or securities; provided, further, that none of the provisions hereof shall apply to or in any manner affect corporations organized for the purpose of raising and improving live stock, cultivating and improving farms or garden or horticultural lands, or for growing sugar beets, or any corporation formed for the purpose of canning fruits or vegetables. And, provided, further, that these requirements shall not apply to any foreign corporation heretofore licensed or authorized to transact business in this state and which has paid to the state treasurer the fees on capital stock required of domestic corporations under Laws 1889 c. 225, or to any corporation whose sole business in this state is the transportation of freight or passengers, or both, by water. (2890)

Constitutional (84-497, 88+19; 85-121, 123, 88+441). Inapplicable to contracts made prior to law (89-256, 94+723). Inapplicable to corporations not doing business here but simply attempting to collect in our courts claims against our citizens (90-358, 96+919; 94-472, 103+507). Cannot be applied so as to interfere with interstate commerce. Foreign corporation having warehouse here for convenience in distributing goods sold by its traveling agents held not to be doing business here within statute (93-356, 101+616).

Single isolated transaction, such as the sale and delivery of machine to person within state, is not doing business within the state (100-112, 110+367). Foreign corporation, which ships goods to distributing warehouse within state, whence they are forwarded under special contract, on order of corporation, to parties within state, who receive the goods under contracts inconsistent with sale, and consistent only with agency, held doing business in state (101-432, 112+989. See, also, 101-53, 111+733).

Where goods are shipped from without state to fill order given therein, and sale is without state, transaction is not within statute (113-16, 128+1014). Otherwise if sale is within state (112-469, 128+570).

Question whether foreign corporation is "doing business" in state, so as to be subject to service of process under R. L. § 4109 [7735], is distinct from question whether it is "doing business" in state within R. L. §§ 2888-2890 [6206-6208] (118-1, 136+291).

Foreign corporation doing business here without first complying with statute cannot maintain action in our courts on contract or demand growing out of such unlawful business (85-121,

88+441; 89-256, 94+723; 93-201, 100+1101). Compliance after making contract or commencement of action ineffectual (85-121, 88+441). Proviso exempting certain corporations to be strictly construed (93-201, 205, 100+1101). Presumption of compliance with statute. Non-compliance matter of defence and need not be pleaded by corporation (93-432, 101+796, 106 Am. St. Rep. 443, 2 Ann. Cas. 1004; 94-472, 103+507; 113-405, 129+850. See 108-89, 121+427).

In action by foreign corporation against its agent to recover money received by him for its use, he is not estopped to show that it has not complied (101-432, 112+989).

Failure to comply with section 2888 [6206] does not protect agent of foreign corporation who unlawfully appropriates its money or property (113-405, 129+850).

Jurisdiction over foreign corporation voluntarily appearing and submitting to jurisdiction (111-48, 126+410).

Does not affect power or duty of national courts to determine controversies in bankruptcy proceedings or other controversies of which constitution and acts of congress gave them jurisdiction (156 Fed. 545, 86 C. C. A. 435).

**6209. 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 [6206-6208], 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)

**6210. 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)

**6211. Contracts and conveyances of certain corporations legalized**—That any and all contracts with, and any and all conveyances to or from, any foreign corporation for pecuniary profit, and now or hereafter doing business in this state, which has heretofore at any time complied with, or attempted to comply with chapters sixty-nine (69) and seventy (70) of General Laws of the state of Minnesota for the year eighteen hundred ninety-nine (1899), now known as sections 2888, 2889 and 2890 Revised Laws of Minnesota, 1905 [6206-6208], relating to the admission of foreign corporations for pecuniary profit to do business in this state and requiring certain fees to be paid by such corporations, and has paid into the state treasury the fees provided for by said law, and has obtained from the secretary of state a certificate that said corporation has complied with the laws of this state in this respect, and is authorized to do business in this state, are hereby legalized, confirmed and validated and all such contracts are hereby made valid and enforceable by or against any such corporation, as fully and to the same extent as if such corporation had in all things complied with said law before transacting any business in the state of Minnesota. ('11 c. 158 § 1)

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

## PUBLIC SERVICE CORPORATIONS

### RAILROAD CORPORATIONS

**6213. Right of way over state lands**—A right of way over any swamp, school, internal improvement, agricultural college, or university lands, now

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

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

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

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

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

**6215. Selection of swamp lands**—Any railroad company to whom swamp lands have been granted by the state, which by the terms of the grant is required to make selection and receive patents therefor, shall make selections and file lists with the state auditor within one year from the date when the right to select shall accrue, but not thereafter. Upon the approval of said lists by said auditor, the governor shall immediately issue deeds for the same; but if there be no swamp lands certified or patented from which such selection can be made, then such company shall have one year from and after the date, of the certifying of such lands within which to make its selection. If such railway company shall neglect or refuse to make selection within the time hereinbefore specified, the right to select shall terminate, and the said auditor shall forthwith select and set apart from the swamp lands of the

state lying nearest such company's railway an amount of land sufficient to complete the grant, and no other or different lands than such as have been selected by the company within the time specified or set apart by the auditor shall be certified or conveyed to such company. (2893)

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

63-330, 351, 63+267, 65+649, 68+458, 34 L. R. A. 184.

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

68-542, 547, 71+706; 123 Fed. 692; 161 U. S. 646, 16 Sup. Ct. 785, 40 L. Ed. 833; 193 U. S. 197, 24 Sup. Ct. 436, 48 L. Ed. 679; 194 U. S. 57, 24 Sup. Ct. 593, 48 L. Ed. 870; 101-132, 112+13.

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

**6219. Consolidation permitted**—Any domestic or foreign railroad corporation, upon such terms as may be agreed upon, may consolidate its stock and franchises with any other railroad corporation whose lines of railroad now or hereafter constructed within or without this state can be lawfully connected and operated with such first-named corporation, so as to constitute one continuous main line, with or without branches, and admit of the passage of trains over them without break or interruption, and may become one corporation under any name selected by them. A certificate stating the terms of consolidation shall be approved by each corporation by a vote, in person or by proxy, of the stockholders owning a majority of the stock, at a regular annual meeting thereof, or at a special meeting called for that purpose by not

less than thirty days' personal notice, or by published notice at its principal place of business, stating the object of such meeting, and by mailing a copy of such notice to each stockholder whose residence is known, or by the written consent of a majority of such stockholders attached to the certificate. Before such consolidation shall be effective for any purpose, a copy of the certificate thereof, and of the record of such approval or consent, and a list of the stockholders of each corporation and the number of shares held by each, duly certified by its president and secretary under its corporate seal, shall be filed for record in the office of the secretary of state of this state and of each state or territory under whose laws the corporations so consolidating were organized. (2897)

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

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

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

**6221. Method of combination**—Any domestic railroad company authorized by law to consolidate its property and franchises, or any portion thereof, with the property and franchises or any portion thereof of another railroad company, or to purchase the railroad property and franchises, or any part thereof, of another railroad company, may effect such consolidation or purchase by acquiring the stock, bonds, or other securities of such other railroad company, and for the special purpose of acquiring the same may create, issue, or dispose of its own stock, bonds, or other securities, in addition to the amounts it is otherwise authorized to issue, to an amount not exceeding the actual value of the stock or bonds of such other company acquired by it. It may also create, issue, and dispose of such amounts of stock for any other authorized purpose as the board of directors may find necessary. Prior to the issue of any stock under the provisions of this section, the corporation shall file with the secretary of state a duly authenticated resolution of its board of directors, stating the number and par value of the shares so to be issued and the purpose of such issue. But no railroad company shall sell its capital stock for less than its full par value in money, property, work, or services, and no such company shall issue or sell any stock or do any act prohibited by any other law relating to such matters. (2899)

Cited (100-445, 111+289, 10 L. R. A. [N. S.] 250).

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

meeting, in person or by proxy, and voting thereat, shall have assented thereto. (2900)

28-443, 10+594; 36-246, 265, 30+816; 68-542, 548, 71+706.

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

Mortgages (44-115, 46+301, 9 L. R. A. 140; 52-246, 53+1151; 56-188, 57+471, 29 L. R. A. 212).

**6224. Mortgages and deeds of trust—**Telegraph and telephone companies may mortgage or execute deeds of trust of the whole or any part of their property and franchises to secure money borrowed by them for the construction and equipment of their lines and properties, and for other corporate purposes, and issue their corporate bonds in sums of not less than five hundred dollars, secured by such mortgages or deeds, and, if payable to bearer, negotiable by delivery, bearing interest at a rate not exceeding six per cent. per annum, and convertible into stock or not as may be deemed expedient, may sell them at such prices as they deem proper; and if said bonds shall be sold below their normal or par value they shall be valid and binding on the company, and no plea of usury shall be put in by, or allowed to, said company in any suit thereon. Such mortgages or trust deeds may by their terms include and cover after acquired property, real and personal, and shall be as valid and effectual for that purpose as if the property was in possession at the time of the execution thereof. (2902)

Applicable though transaction takes form of loan rather than sale of bonds (116-4, 133+91, 36 L. R. A. [N. S.] 1132, Ann. Cas. 1913A, 622).

**6225. Rolling stock, etc.—Lien for purchase money—**In any contract for the purchase and sale of railroad equipment or rolling stock, whether deliverable at once or at future stated times, by the terms of which the purchase money is to be paid wholly or partly after such delivery, it may be agreed that the title to such property shall not pass to the vendee until the purchase price shall have been fully paid, or that the vendor shall have and retain a lien thereon for the unpaid purchase money, notwithstanding delivery thereof: Provided, that the term of credit for purchase money, shall not exceed ten years from the execution of the contract. (2903)

**6226. Same—Lease—Conditional sale—**In any contract for the leasing of railroad equipment or rolling stock, the parties may stipulate for a conditional sale thereof at the termination of such lease, that the rentals, as paid or when paid in full, may be treated and applied as purchase money, and that the title to such property shall not vest in the lessee or vendee until the purchase money shall have been fully paid, subject, however, to the proviso in § 6225. (2904)

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

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

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

**6230. Holders of bonds, etc., may vote for directors, when—**Such corporation, in such manner, under such regulations, and to such extent as may be prescribed by its board of directors and assented to by the holders of at least two-thirds in amount of its then outstanding common capital stock, may confer upon the holders of bonds or other obligations issued to evidence or secure its indebtedness, or upon the holders of its special or preferred stock, or of its income certificates, or of any particular class thereof, or upon all or any of them, the right to vote for directors, and to choose from the stockholders, special, preferred, or common, or from the holders of the bonds or income certificates of such corporation, one or more members of its board of directors. (2908)

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

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

**6233. Unpaid and fictitious stock—**No domestic railroad corporation or consolidated corporation existing in whole or in part within this state, nor any officer thereof, shall sell, dispose of or pledge any shares of its capital stock, or issue any certificates of shares thereof until such shares have been paid in full, or issue any stock or bonds except for money, labor or property, to the par value of the stock and the market value of the bonds, not, however, less than ninety per cent of the par value thereof, actually received and

applied to the purpose for which the corporation was organized; and all fictitious stock, dividends, increase of capital stock or indebtedness shall be void. Every officer who shall issue, sell, pledge or dispose of any shares or certificates of shares of capital stock contrary to the provisions hereof shall be guilty of a felony. (R. L. § 2911, amended '13 c. 384 § 1)

R. L. §§ 2912, 2913, were repealed by 1907 c. 231.

53 Fed. 889; 73 Fed. 914.

Cited (100-445, 111+289, 10 L. R. A. [N. S.] 250).

**6234. May exercise franchise elsewhere**—Every domestic railroad corporation may exercise all its rights, franchises, and privileges in any other state or country, subject to the laws thereof, and may also exercise therein any other or additional powers applicable to such corporation under the laws of such state or country. (2914)

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

Right not absolute. Court to determine whether crossing is required by public necessity (37-164, 33+701). Court not limited to precise location set forth in petition (35-461, 29+60). Place and manner of crossing must cause least possible injury consistent with accomplishment of purpose (39-162, 39+65). Power of court to impose conditions (50-300, 52+657). Effect of appeal (35-461, 29+60).

Applies to railroad corporations organized under former statutes, as well as those organized under the Revised Laws (101-132, 112+13).

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

Inapplicable to private railroad (56-334, 57+1054, 22 L. R. A. 565), or street railway (83-275, 278, 86+103). Limited to tracks. Does not extend to depots, freight houses, etc. (63-330, 63+267, 65+649, 68+458, 34 L. R. A. 184). Occupancy of street by railroad does not relieve city of care thereof (32-308, 20+320, 50 Am. Rep. 567). Nature of right acquired by railroad (22-149). Consent of city does not relieve railroad of obligations to abutting owners (17-215, 188; 18-260, 236).

A railroad company has right to acquire by condemnation under this section, right of way over streets and alleys of cities and villages, and over private property within such limits, without securing franchise from municipal authorities (101-132, 112+13. See, also, 108-407, 122+486, 133 Am. St. Rep. 455, 17 Ann. Cas. 550; 113-459, 130+18; 101-545, 112+1142).

Does not require such franchise from or agreement with city or village as to manner, terms, and conditions upon which street may be crossed, whether condemnation necessary, quare. Injunction against crossing before condemnation begun denied (117-14, 134+302).

Cited (115-51, 131+859).

See note under § 6136.

**6237. Power to acquire property**—Every foreign and domestic railroad corporation shall have power to acquire, by purchase or condemnation, all necessary roadways, spur and side tracks, rights of way, depot grounds, yards, grounds for gravel pits, machine shops, warehouses, elevators, depots, station houses, and all other structures necessary or convenient for the use, operation, or enjoyment of the road, and may make with any other railroad company, such arrangements

for the use of any portion of its tracks and roadbeds as it may deem necessary. (R. L. § 2917, amended '13 c. 502 § 1)

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

37-164, 108, 33+701; 67-339, 346, 69+1085; 76-302, 79+304.

**6238. Extensions and branches**—Any railroad corporation may extend its road from any point named in its charter or certificate of incorporation, or may build branch railroads from any point on its own line, or on the line of any other railroad connecting or to be connected with its road, whenever it shall have secured the use of such other road between such points and the connection with its own road by lease or agreement for a term not less than ten years from its date. Before making such extension or building such branch road, such corporation shall designate the route thereof by resolution of its board of directors or as provided in § 6242. Such resolution shall be entered in its records, and a duly certified copy thereof and a plat or map signed and verified by its president and secretary shall be filed for record with the secretary of state; whereupon such corporation shall have and exercise all the rights, powers, franchises, and privileges over such extension or branch that it has over its main line. Nothing herein shall apply to street railways. (2918)

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

**6239. Contractor's bond—Liability of company**—Any railway contracting for the construction or repair of its road shall take from the contractor a sufficient bond, conditioned that he will pay all laborers, mechanics, and other persons performing any part of the work, all just debts due them or incurred in carrying on such work, which bond or a certified copy thereof shall be filed with the register of deeds of each county where any part of the work is done. All persons to whom such contractor shall be indebted for any such work, and such railway company in case it shall have paid any debt, claim, or demand as hereinafter provided, may bring an action on such bond for the price of such work or amount of such payment. If the contractor giving the bond shall fail to pay any indebtedness for such work or services, or if any railway company shall fail to take and file such bond, such company shall be liable for the amount of all such debts incurred by such contractor under or pursuant to such contract: Provided, such laborers, mechanics, or other persons shall give the notice and take the action prescribed in § 6240. (2919)

34-32, 33, 24+289.

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

**6241. Alteration of route**—The board of directors of any railroad corporation, by a vote of two-thirds of their whole number, may alter the route of their road, or any part of the road, or any extension or branch thereof as constructed, whenever they are of opinion that the line can be improved thereby; but no railroad, whether in the hands of the original incorporators or of any other person or corporation, shall be diverted from any county, town, city, or village which in its corporate capacity shall have extended aid to such road, without the consent of such municipality. Such consent shall be evidenced by a vote of two-thirds of the legal voters of such municipality, at an election held for that purpose. No such alteration shall be made in any city or village after the road shall have been constructed therein, unless the same shall have been sanctioned

by a vote of two-thirds of the governing body of such municipality. Before making any such alteration, unless the route is designated as provided in § 2922, the board of directors shall designate the route thereof by a resolution entered in its records and filed for record with the secretary of state. (2921)

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

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

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

37-375, 377, 34+593.

**6244. Land grant railroad companies—**Every land grant railroad company shall keep at some public office within this state the originals, or copies, of all books, papers, and records of every description relating to lands sold, contracted, incumbered, or owned by it, so as to show clearly all material matters connected with its grant and the management of its lands. Such books and papers shall be open to inspection by the state auditor, railroad and warehouse commissioners, or any agent appointed by the governor for that purpose. Every such corporation, failing to comply with the provisions of this section and § 6243, shall forfeit to the state five hundred dollars for each month it shall fail to maintain the offices specified therein or either of them. Proceedings to recover such forfeiture shall be prosecuted by the attorney general in the name of the state. (2924)

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

Effect of meeting out of state (46-454, 49+197).

**6246. Right of eminent domain in certain cases**—Any public service corporation shall have the right to obtain by condemnation, under the right of eminent domain, any land, or any right over, through, or across the same, or any easement therein, necessary for the convenient prosecution of its enterprise; and any telegraph or telephone company may in the same manner acquire the right to construct its lines over, along, and upon the right of way and lands of any railway company upon making just compensation therefor to such company; but such right shall at all times be subject to the right of the railway company to use its right of way and lands for railway purposes, and said telegraph or telephone lines shall be so located, constructed, and maintained as not to interfere with the usual operation of such railway. (2926)

First clause a repetition (see § 6137). Right of telephone company to acquire rights in railroad right of way (76-334, 79+315).

Cited and applied (101-132, 112+13; 101-197, 112+395, 11 L. R. A. [N. S.] 105). Cited 113-459, 130+18.

See notes under §§ 6136, 6137.

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

Right of city to require telephone wires to be placed under ground (81-140, 83+527, 86+69, 53 L. R. A. 175). Telephone line in highway not an additional servitude (60-539, 63+111, 28 L. R. A. 310, 51 Am. St. Rep. 543). Vested rights acquired by company (81-140, 83+527, 86+69, 53 L. R. A. 175, 84-486, 87+1127; 154 Fed. 386).

A corporation organized to supply electric service to cities and their inhabitants (119-225, 137+1104).

That a line will be used as instrument of interstate commerce does not enlarge rights of company. 154 Fed. 386. Action by city (183 Fed. 854).

Cited and applied (101-197, 112+395, 11 L. R. A. [N. S.] 105).

See note under § 6137.

#### UNION DEPOT COMPANIES

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

**6248. In cities of first class—Powers and duties**—In every city of this state, now or hereafter having a population exceeding fifty thousand inhabitants, into or through which two or more commercial steam railways may pass, and in which each or two or more of such commercial steam railways may maintain separate and independent passenger stations at different points within such city, or in which the union passenger depot facilities furnished and provided by such railways are insufficient and inadequate to meet the needs and comfort, or insure the safety, health and convenience of the traveling public, a body corporate may be formed for the purpose of supplying the means and doing the work necessary to acquire sufficient lands, and of erecting, constructing and maintaining a union passenger depot, so situated, as to location, and of such dimensions, and so equipped, as to adequately meet all the reasonable requirements of passengers entering or departing from such city over any of such commercial steam railways.

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

**6249. How incorporated—Certificate—Subscription to stock—**Fifteen or more citizens of this state, desiring to form a corporation for such purposes, may make and subscribe a certificate of incorporation, in which shall be set forth the names and residences of the incorporators, the name of the corporation,—which shall embrace the words "Union Depot," and also the name of the city in which it is proposed to erect such union depot, with such other word or words as such incorporators may select,—the amount of the capital stock of such corporation, a full statement of the objects and purposes of said incorporation, the duration of the existence of said corporation, the number of persons who shall compose its board of directors, and such other things as are required to be stated in such certificate of incorporation by section 2849 of the Revised Laws of Minnesota, 1905 [6147], and acts amendatory thereof.

Such certificate of incorporation shall be executed in the same manner as is required by said section 2849 [6147], and shall be published, filed and recorded in the same manner as is required of other corporations by sections 2850 and 2851 of said Revised Laws of Minnesota, 1905 [6148, 6149], and acts amendatory thereof, and shall be subject to the payment of the same fees for the organization of such corporation as is required of other corporations by chapter 58 of the Revised Laws of this state, 1905, and acts amendatory thereof.

Said corporation shall not be authorized to exercise the powers, rights and privileges herein granted, with reference to the taking and condemnation of property, until one-fourth of its capital stock has been subscribed for by bona fide, unqualified subscriptions, and until, at least, ten per cent of the amount so subscribed has been paid in cash into the hands of the treasurer of the corporation, and until all the provisions of section 3 [6250] hereof have been fully complied with. ('11 c. 102 § 2)

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

**6250. Maps, plats, etc.—Duties of railroad and warehouse commission, etc.—**Whenever a corporation has been organized by complying with the foregoing provisions it shall, within three months thereafter cause to be filed with the railroad and warehouse commission maps, plats and drawings showing the real property to be taken by said corporation for its use, also the location, dimensions and general plans of the building, sheds, tracks and approaches to be built by said corporation on the lands so designated. Said railroad and warehouse commission shall thereupon examine said maps, plans and drawings for the purpose of determining whether they meet the reasonable requirements of said city for the purpose of a union depot and shall within thirty days after said filing render a decision thereon. In case said commission shall find said maps, plans and drawings inadequate for the purposes herein provided, it shall so find and point out in detail such inadequacies and said corporation shall within sixty days thereafter so alter its plans and drawings as to conform to the direction of said commission, and when so altered to comply with such direction, said railroad and warehouse commission shall thereupon forthwith issue an order under the seal of said commission approving of said maps, plats and drawings, and thereupon such corporation may exercise the powers, rights and privileges herein conferred to the exclusion of all other persons or corporations. ('11 c. 102 § 3)

**6251. Inadequate facilities—Complaint by railroad—Powers of commission and district court—**If, at any time after such union depot shall be completed and opened for the use of the railroads and the public, any railroad using the same shall claim that the facilities afforded it by said corporation maintaining any such union depot are inadequate for the proper discharge of its business as a public carrier, it shall make a complaint in writing specifying the particulars of its claim, and file the same with the railroad and warehouse commission, who shall thereupon give notice by mailing a copy of such complaint to the corporation operating and maintaining any such union depot.

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

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

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

**6252. Acquisition of property—Eminent domain—**Any such corporation is hereby expressly authorized and empowered to acquire by contract, deed or other conveyance, any and all property, including lands, depots, depot grounds, tracks, bridges and appurtenances which it may deem necessary, convenient or expedient for the purposes of such union depot.

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

The purposes of such union depot are hereby declared a paramount public use to which any and all other public uses to which any property may be dedicated by any commercial steam or other railroad shall be subservient.

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

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

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

**6254. Rates to be paid by railroads—Power of commission—Payments—**Each railway making use of such union passenger depot shall pay for its use, to the corporation maintaining the same, in proportion to the amount or extent of such use which shall be computed upon a wheelage basis, or such other basis as the railroad and warehouse commission of this state may determine upon as just and reasonable.

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

The rate or rates to be paid by any and all of the railroads for the use of such union depot shall be fixed and determined by the railroad and ware-

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

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

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

**6255. Railroad failing to use—Powers and duties of commission and attorney general.**—If any railroad entering into or passing through any city wherein a union depot has been built pursuant to this act, shall neglect or refuse to use the same upon the terms and conditions prescribed in this act, such neglect or refusal shall be made known in writing by such union depot corporation to said railroad and warehouse commission, who shall thereupon order the railroad complained against to show cause before said railroad and warehouse commission why an order should not be issued by it requiring said railroad to make use of such union depot according to the provisions of this act, and any such union depot company shall also be given notice of the time and place of such hearing. If, at the time and place so fixed, it shall appear that facilities have been provided by such union depot company for use of such union depot by such railroad, and that such facilities are reasonably adequate to care for the business of said railroad, then the railroad and warehouse commission shall make its order in writing, under its seal, requiring said railroad to make exclusive use of said union depot according to the intent and purpose of this act.

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

#### TELEGRAPH AND TELEPHONE COMPANIES

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

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

**6258. Precedence of messages.**—Messages delivered to the owner or agent of any telegraph line operated in whole or in part within this state shall be transmitted in the order in which they are received, except that government dispatches and messages relating to the movement of railroad trains, to cases

of sickness or death, and to the administration of criminal laws shall take precedence if the sender shall so request. (2930)

**6259. Liability for damages**—If any person or corporation owning or operating a telegraph line wholly or partly within the state shall fail to transmit any message within a reasonable time, or to exercise due diligence to that end, after its reception, or shall fail to deliver any message to the party to whom it is addressed within a reasonable time after its arrival at the place of destination, he or it shall be liable in a civil action at the suit of the party injured for all damages sustained by reason of such neglect or omission. The company delivering the message shall state plainly thereon the exact time when it was received at the original point for transmission. (2931)

Does not authorize damages for mental suffering (58-252, 59+1078, 25 L. R. A. 406, 49 Am. St. Rep. 507).

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

#### BOOM COMPANIES

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

See § 6263, and note.

**6262. Powers and privileges**—Every such corporation which shall so improve a stream, keep it in repair, and operate its works so as to render the driving of logs therein reasonably practicable, may collect reasonable and uniform tolls upon all logs, lumber, and timber driven, sluiced, or floated on the same, and may take possession of all logs put into such streams or upon rollways so as to obstruct such stream or impede the driving and delay others in driving logs and lumber placed therein, and drive them down and out of the stream, and collect from the owner or party controlling the same reasonable compensation therefor; and shall also, at the request of the owner, take charge of any logs or lumber put into said stream, and drive the same down and out of such stream, or as far as their improvements extend, and charge and collect reasonable compensation therefor. If any stream so improved is in whole or in part the boundary between this and an adjoining state, such corporation, with the consent of two-thirds of its stock, may purchase and hold stock in any corporation in such adjoining state created for similar purposes upon the same stream, or consolidate or otherwise unite with it whenever its purposes can be better effected thereby. All dams and other works constructed under the provisions of this section and § 6261 shall be so built and operated as to expedite the driving and handling of logs and lumber, and the corporation making such improvements shall not stop logs or lumber destined for points below its works on said stream except where dams have been constructed to accumulate water for sluicing logs and flushing the stream below the same; in which case it shall not detain logs in any part of the stream so as to form a jam or prevent the prompt delivery of logs destined for points below the works constructed by such corporation. (2934)

See following section, and note.

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

**6263. Corporations for driving logs—Powers and duties—Tolls—Liens**—That section 2 of chapter 221 of the General Laws of Minnesota for 1889 entitled "An act to amend title one of chapter thirty-four of the General Statutes one thousand eight hundred and seventy-eight, relating to corporations" is hereby amended so that the same shall read as follows:

That said title one of chapter thirty-four be further amended by adding thereto the following: Any corporation formed under this title, in whole or in part, for the improvement of any stream or streams and driving or handling logs therein which shall have taken prior possession of such stream or streams, or any considerable portion thereof, upon which portion no other corporation organized for the purpose above mentioned has taken possession or has made improvements in aid of driving logs or of driving or handling therein, shall have power to improve such stream or streams and their tributaries by clearing and straightening the channels thereof, closing sloughs, erecting sluiceways, booms of all kinds, side rolling sluicing and flooding dams, or otherwise, as may be necessary; and may acquire any and all dams, booms, structures and works already erected by any person or persons, and also all necessary rights of way, shore rights, land and lands under water, by purchase or by any of the methods provided in this title; but such corporation shall in no case in any manner materially obstruct or impede steamboat navigation, or driving or handling logs. It shall be the duty of every such corporation to serve the public equally and reasonably, and for a reasonable compensation. Every such corporation which shall so improve a stream and so keep in repair and operate its works so as to render driving logs thereon reasonably practicable and certain, may charge and collect reasonable and uniform tolls upon all logs, lumber and timber driven, sluiced or floated on the same, and may take possession of all logs put into such stream or upon rollways, so as to impede the drive when the owners thereof or their agents shall not have come upon the stream adequately provided with men, teams and tools for breaking the rollways and driving such logs in season for making a thorough drive down such stream without hindering the main drive; and shall also, at the request of the owner of any logs and timber put into said stream, take charge of the same and drive the same down and out of such stream, or down such stream so far as their improvements may extend and charge and collect therefor of the owner or party controlling said logs and timber reasonable charges and expenses for such services. And such corporation shall for all such tolls, costs and expenses have a lien on the logs for which the same was incurred, and may seize in whosoever possession found and hold a sufficient amount thereof, to pay the same, and make sale thereof upon giving ten days' notice in the manner provided for notifying sales on execution upon the judgment of justice of the peace, or may enforce such liens as other liens are enforced by proper proceedings for that purpose, or may ask, demand, sue for, collect and receive from the owner or owners of such logs the amount due for any such tolls. No injunctive order shall be granted to prevent the use or enjoyment of any such improvement or abate any such dam necessary thereto, unless such corporation shall fail for sixty days after judgment, from which no appeal has been taken, to pay any damages recovered for any injury done by or in consequence of its works. Any corporation formed for the improvement of a stream, which is in whole or in part a boundary between this and an adjoining state or country and authorized to drive logs or maintain booms or dams in such stream, shall have authority to purchase and hold stock in corporation or corporations in such adjoining state or country created for similar purposes upon the same stream, or to consolidate or otherwise unite with such corporation or corporations in such adjoining state or country, whenever the purposes for which the corporation in this state is organized can be better effected thereby. Provided, that no such purchase or consolidation or other union shall be made without the consent of holders of two-thirds of the capital stock of such first named company. Provided, that all dams and other works erected under the authority given by this act shall be so constructed, used and operated as to facilitate and expedite the driving and handling logs and lumber upon the stream upon which the same may be erected, and the corporation making such improvements hereunder shall have no right to stop logs destined for points below its works on said stream except where dams have been constructed to accumulate water for sluicing logs and flushing the river below the same, and in such case shall not detain logs in any part of the river so as to form a jam or prevent the prompt delivery of

logs destined for points below the works constructed under authority of this act. (G. S. 1878 c. 34 tit. 1, amended '89 c. 221 § 2; '05 c. 89 § 1)

**Historical**—1889 c. 221, was repealed by § 9448; the provisions of section 2 thereof being incorporated in part in §§ 6261, 6262. So far as the section above set forth differs from the Revised Laws, it is to be construed, by virtue of § 9398, as amendatory or supplementary.

Defendant, though its articles stated that it was incorporated under G. S. 1894 c. 34 tit. 2, was in fact organized for conducting the business contemplated by 1889 c. 221, amendatory of G. S. 1878 c. 34 tit. 1, and was entitled to the benefits of that statute (97-513, 107+735).

1889 c. 221 § 2, amended 1905 c. 89, does not authorize such company to extent its works beyond center of Rainy Lake river and within jurisdiction of Canada (162 Fed. 287, 89 C. C. A. 267).

Defendant was not authorized to levy tolls on logs, not having been requested by owner to drive, handle, or sort such logs, or authorized by fact that they were impeding main drive (115-296, 132+259).

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

See note under § 6137.

Extent and enforcement of lien (97-513, 107+735).

Tolls for handling its logs cut in Canada (162 Fed. 287, 89 C. C. A. 267).

**6264. 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)

**6265. Charges for boomage by certain companies**—Any corporation engaged in the business of collecting booming, assorting and delivering to their respective owners, logs or timber floating in any waters forming the boundary between this and any other state, at the place where such business is carried on and which logs or timber have been cut in such adjoining state, as well as in this state, may charge and collect from the owner, or owners of such logs or timber one dollar per thousand feet board measure for all logs and timber so collected, boomed, assorted and made ready for delivery. ('11 c. 191 § 1)

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

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

## CEMETERY ASSOCIATIONS

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

6269. **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)

6270. **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)

6271. **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)

6272. **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)

6273. **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 con-

tained 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)

**6274. 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)

**6275. 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)

**6276. Incorporation—Powers—Transfer by town, village or city to association—**A corporation or association may be formed for the purpose of procuring and holding or selling lands or lots exclusively for the purpose of public cemetery and such corporation may acquire and manage all real and personal property necessary or proper for the establishment, embellishment, care and management of a cemetery and may construct and operate thereon a crematory and other proper means of disposing of the dead. It may also sell and convey cemetery lots or sell and convey real or personal property lawfully acquired by such association or corporation but not needed for cemetery purposes. Such corporation may be formed by three or more persons who shall execute and verify the certificate or articles of incorporation as required in the matter of the formation of other corporations under the provisions of this chapter. Such certificate of incorporation shall be filed for record in the office of the register of deeds of the county wherein such cemetery is situated and thereupon such association shall become a corporation. All cemeteries hereafter started or established except cemeteries established by religious corporations are hereby declared to be public cemeteries within the provisions of this act.

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

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

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

to the state board of health and to local health officers, when so requested, an accurate summary of such record during any specified year. (2937)

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

**6278. Failure to keep register—Forfeiture—**Every actuary, or secretary performing the duties of an actuary, failing to keep such register of burials, and to record therein all interments and cremations, for every such offence shall forfeit not less than two nor more than ten dollars for the benefit of the school fund of the district in which such cemetery or crematory is situated. (2938)

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

70-486, 73+153; 93-191, 101+161.

**6280. Sale of lots—**After the filing of the map mentioned in § 6279, the trustees may sell and convey the lots as designated on such map, upon such terms and subject to such conditions and restrictions as they shall prescribe. Every conveyance of any such lot shall be expressly for burial purposes and no other, and shall be in the corporate name of the association, and signed by its president or vice-president and by its treasurer or secretary. (2940)

85-498, 89+872.

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

85-498, 89+872.

**6282. "Associates" defined—Vacancies—Annual meeting—**The word "associates," as used herein, shall mean the original incorporators and their successors. The certificate of incorporation may provide that vacancies among the associates shall be filled by the remaining associates, and that at all elections after the first the trustees shall be chosen from such associates, or it may provide that they shall be chosen by and from the lot owners. Whenever there are two or more owners of a lot, they shall select one to represent them and to vote at such election. The trustees may fill any vacancy occurring in their own number for the unexpired term. Public notice of every annual election shall be given in the manner prescribed in the by-laws. If for any reason the annual election be not held on the day fixed in the certificate of incorporation, the trustees may appoint another time not more than sixty days thereafter, and give public notice thereof; but the term of office shall be the same as if elected at the annual election. (2942)

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

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

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

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

See § 1970 and note.

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

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

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

**6288. Descent of lots**—Upon the death of a lot owner, such lot, unless otherwise disposed of by will as provided in § 6289, shall descend as follows:

1. To the surviving spouse of decedent.
2. If there be no living spouse, then to the eldest living son of decedent.
3. If there be no living son, then to the eldest living daughter.
4. If there be no living daughter, then to the youngest brother of decedent.

5. If there be no living brother then to the youngest sister of decedent.

6. If there be no surviving spouse, son, daughter, brother, or sister of decedent, then to the association in trust for the uses of a burial lot for the decedent and such of his relatives as the trustees shall deem proper.

But such association, or, with its consent, any person to whom such lot shall so descend, may grant and convey the same to any one of decedent's sons, daughters, brothers, sisters, or grandchildren, and such grantee shall thereafter be deemed the owner thereof. (2948)

**6289. Disposition by will**—Any owner of a cemetery lot may dispose of the same by will to any one of his relatives who may survive him, or to such cemetery association, in trust, as specified in § 6288; but no such lot shall be affected by any testamentary devise unless the same be specifically mentioned in the will. No interment shall be made in any such lot, except by written consent of the association, of the body of any person who was not, at the time of death, the owner thereof, or a relative of the owner by blood or marriage. Every such association shall keep a record of all deeds, conveyances, judgments, decrees, or other documents affecting the title to lots in such cemetery, copies of which, certified by the secretary, shall be received in evidence by the courts. (2949)

**6290. 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)

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

See following section.

**6292. 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. (1887 c. 168 § 1, amended '97 c. 339 § 1; '05 c. 197 § 1)

**Historical**—1887 c. 168 and 1897 c. 339 were repealed by §§ 9447, 9452; the provisions of 1907 c. 339 § 1, amended 1897 c. 339, being incorporated in the preceding section. So far as the above section differs from the Revised Laws, it is to be construed, by virtue of § 9398, as amendatory or supplementary.

**6293. Trustees of fund**—The trustees shall thereupon choose by ballot and appoint by deed of the association a board of not less than three nor more than five trustees of such fund. They shall be resident freeholders of this state during all the time they exercise the powers of such trust. Upon failure of any of those appointed to qualify within thirty days after appointment, the one or more who shall have qualified shall appoint by deed other persons to be trustees in their places. And on failure of any person so appointed to qualify within thirty days another shall be appointed in like manner; but every appointment to fill a vacancy shall be by unanimous vote of those acting: Provided, that instead of appointing such board the trustees of the association may designate any trust company of the state to act as such trustee during their pleasure. All instruments of appointment of such trustees shall be recorded with the secretary. (2951)

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

**6295. Bonds**—Before entering upon his duties, each person chosen as a trustee of such fund shall give bond to the association in a sum not less than five hundred dollars, and at least equal to one-third the amount of the fund at that time, conditioned for the faithful discharge of his trust. Upon July 1 in each even numbered year every trustee shall give a new bond, in amount and with conditions as aforesaid. Every such bond shall be approved by a judge of the judicial district in which such cemetery or some part thereof is

situate, and filed with the treasurer of the association. Failure by any trustee to renew his bond within thirty days after the time herein specified shall be a sufficient ground for his removal on application of any person interested. (R. L. § 2953, amended '07 c. 211 § 1)

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

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

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

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

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

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

**6302. 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)

**6303. 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)

**6304. 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)

**6305. 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 [6302] 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)

**6306. 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 [6305] 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)

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

**6308. Same—**Any public cemetery corporation which has been heretofore or may hereafter be incorporated under the laws of the state of Minnesota, and has acquired more than one hundred acres of land, may sell and convey, for other than burial or cemetery purposes, any real estate in excess of such one hundred acres. Provided, that any such sale shall not include any land in which any interments have been made. Provided, further, that any such sale shall be approved by the unanimous vote of all the trustees of such corporation. ('13 c. 444 § 1)

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

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

**6311. Same—To what cities applicable—**This act shall not apply to cities with charters adopted pursuant to section 36, article 4 of the constitution of this state. ('11 c. 129 § 3)

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

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

**6314. Same—Articles of re-association—**At the time and place mentioned in said notice those present shall organize and proceed to prepare and adopt, or authorize to be prepared and adopted articles of re-association, which articles of re-association shall conform to the requirements of the general laws of this state for the organization of public cemetery associations, and shall name the first board of trustees and such other officers as the meeting may determine, provided that a majority of said trustees and officers shall be first named and afterwards elected, from the members of the old association if there are sufficient survivors living in the county where the site is located or adjoining counties. ('13 c. 526 § 3)

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

#### PRIVATE CEMETERIES

**6316. Plat and record—**Any private person and any religious corporation may establish a cemetery on his or its own land in the following manner: The land shall be surveyed and a plat thereof made, upon which all streets, alleys, public grounds, blocks, and lots, and the dimensions and number of each, shall be given, with the letter or figure by which each block is designated. A stone or other monument shall be established to mark one corner of such cemetery, and its location shall be designated on the plat. Such plat and the correctness thereof shall be certified by the surveyor, his certificate indorsed thereon, and with such indorsement shall be filed for record with the register of deeds. (2960)

**6317. Effect of recorded plat—**When such plat has been recorded, every donation or grant of lands therein to the public, to any religious corporation, or to any individual, shall be deemed a conveyance of such lands, subject to the conditions and restrictions, if any, contained therein. Every conveyance

of such lots shall be expressly for burial purposes; and the lands designated on the plat as streets, alleys, ways, commons, or other public uses shall be held by the owner of the cemetery in trust for the uses and purposes thereon indicated. (2961)

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

**6319. Conveyance of lots**—Every religious corporation owning such cemetery may sell and convey lots therein for burial purposes only. Deeds thereof may be executed by the treasurers of such corporations, or by one or more of the trustees thereunto authorized by resolution duly adopted by its board of trustees. (2963)

**6320. 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)

**6321. 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 corporation or association all unsold lots in said private cemetery to said cemetery corporation or association to be used for burial purposes only, and any such conveyance heretofore made, is hereby legalized and such cemetery corporation or association shall hold in trust to and for the uses and purposes aforesaid, all streets, alleys, ways and commons, and the other public uses, in such private cemetery in lieu of the owner thereof. Provided, that the provisions of this act shall not apply to any action or proceeding now pending in any of the courts of this state. ('05 c. 38 § 2)

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

**6323. Exemptions**—All lands, not exceeding one hundred acres in extent, so laid out and dedicated as a private cemetery, shall be exempt from public taxes and assessments, and shall not be liable to levy and sale on execution, or to be applied in payment of the debts of any owner thereof, so long as the same remains appropriated to the use of a cemetery; and no road or street shall be laid through the same without the consent of the owners. (R. L. § 2965, amended '13 c. 137 § 1)

See § 1970 and note.  
85-498, 506, 89+872.

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

## FINANCIAL CORPORATIONS

### GENERAL PROVISIONS

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

See §§ 4624-4635.

**6326. 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 [6330] relating to financial corporations, and when so conducted said business shall be known as "banking." ('07 c. 111 § 1, amended '09 c. 103 § 1)

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

**6327. 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)

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

6329. **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)

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

See §§ 4624-4635.

6331. **Voluntary liquidation—**Any such corporation, by a majority vote of its directors, or a vote of three-fourths of its stock at any regular or special meeting of its stockholders, with the written consent of the public examiner, may voluntarily go into liquidation. Notice of such vote and of the consent of the examiner shall be served by mail upon each stockholder at his last recorded address. Subject to the approval and under the direction of the examiner, such corporation may adopt any lawful plan for closing up its affairs, as nearly as may be in accordance with its original plans and objects. (2969)

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

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

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

6335. **Certificate, how accompanied**—The certificate of incorporation, when presented to the examiner, shall be accompanied, in the case of a bank, with the certificate of a solvent bank in this state of the deposit therein in cash to the credit of the proposed bank, and payable upon its order when countersigned by the examiner, of an amount equal to its capital stock. In the case of a reorganization of a former national bank, it shall also be accompanied with the written consent of the holders of a majority of its former capital stock. In the case of a savings bank, it shall be accompanied with proof of four weeks' published notice of the intention of the incorporators to organize the same, specifying its proposed name and location, and the names of the proposed incorporators, and that a majority thereof reside in the county of its proposed location, and a sworn declaration by each proposed trustee that he will perform his duties as such to the best of his ability, according to law, with proof of the record of such declaration with the register of deeds; and if there is a savings bank organized and doing business in such county a copy of such notice shall be served by mail on such bank at least fifteen days before the filing of such certificate. (2973)

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

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

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

6339. **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, amended '07 c. 415 § 1)

**6340. 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, amended '09 c. 178 § 1)

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

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

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

**6344. Companies subject to this subdivision**—All companies, associations, and corporations organized under any law of this state, other than those re-

lating to the organization of banks and trust companies, which assume or exercise any of the functions, powers, or privileges conferred upon banks or trust companies under this subdivision, shall be subject to all the limitations, penalties, and requirements incident or pertaining to such functions, powers, or privileges; and the stockholders or persons forming the same shall be liable in the same manner and to the same extent as if such companies, associations, and corporations were organized as banks or trust companies under this chapter. (2982)

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

**6346. Same—Not to advertise greater amount than paid in capital—**No such financial institution shall advertise as its capital any amount other or greater than the amount of actual paid in capital, which it shall have at the time of the appearance of such advertisement. ('11 c. 323 § 2)

**6347. Same—Vice president to be director—**The directors of all financial institutions without respect to their kind or character, who are required, under the provisions of its articles of incorporation, to elect a vice president, are hereby forbidden to elect any other person or persons than members of the board of directors, or other such governing body, as vice president of such institution. ('11 c. 323 § 3)

#### BANKS

**6348. How graded—Prepayment—**The capital of every bank of discount and deposit shall be at least ten thousand dollars in a municipality of not over one thousand population, and at least fifteen thousand dollars in one of over one thousand and not over fifteen hundred, and at least twenty thousand dollars in one of over fifteen hundred and not over two thousand, and at least twenty-five thousand dollars in one over two thousand; and payment thereof shall be made in full in cash and certified to the public examiner under oath of the president and cashier before it shall be authorized to commence business. (2983)

**6349. Special powers—**In addition to the inherent and granted powers of corporations in general, such bank shall have power to exercise by its board of directors, or duly authorized officers and agents, subject to law, all such powers as shall be necessary to carry on the business of banking by discounting bills, notes, and other evidences of debt, by receiving deposits, by buying and selling gold and silver bullion, foreign coin, promissory notes, mortgages, and other evidences of debt, and foreign and inland bills of exchange, by lending money on real and personal securities and receiving interest on any of the same in advance, and by exercising all the usual and incidental powers and privileges belonging to such business; but it shall not transact any business except such as is incidental and necessarily preliminary to its establishment, until authorized by the public examiner to commence business. (2984)

23-198, 23 L. R. A. 690; 68-409, 411, 71+621.

**6350. 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, amended '07 c. 137 § 1)

Transferrer only secondarily liable during year. Execution must first issue against transferee (66-487, 69+610, 1069). Bona fide transferrer not liable for debts incurred after transfer (62-152, 64+145). Liability terminates in a year though no transfer on books if there was a bona fide attempt to secure such transfer (91-264, 98+91). Continuation of liability pending reorganization under 1897 c. 89 § 4 (87-68, 91+259). Reduction of double liability to single by 1895 c. 145 (79-211, 81+1059). Effect of extension of debt on transferrer. Nature of transferrer's liability considered (66-487, 69+610, 1069). Liability enforceable by receivers under § 6363 (70-358, 73+171). Stockholder liable on stock held in his name as collateral security (70-398, 73+153, 68 Am. St. Rep. 538). Liability extends to debts incurred before and after acquisition of stock (7-56, 40; 57-552, 59+635). Liability not enforceable in insolvency proceedings under 1881 c. 148 (57-552, 59+635. See 58-434, 59+1077). Cited (79-211, 220, 81+1059; 102-199, 113+268).

Stockholders of banking corporation which is not a bank of issue or circulation are liable under Const. art. 10 § 3 (112-76, 127+386).

On insolvency and proceedings for sequestration within year after transfer of stock, cause of action arises in favor of creditors against transferrer (112-76, 127+386).

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

**6351. Qualification of directors**—Whenever the number of directors shall exceed nine, they may designate, semiannually, by resolution, nine of their number, a majority of whom shall constitute a quorum for the transaction of business. Every director of a bank whose capital is not over fifteen thousand dollars shall actually own at least three hundred dollars of full paid stock, and in those with a capital exceeding that sum at least five hundred dollars, and shall take and subscribe an oath that he is the owner in good faith and in his own right of such amount of stock, that the same is not in any way pledged for any loan or debt, and that he will faithfully perform his official duties, and not knowingly violate or permit to be violated any provision of law. The taking of such oath shall be duly certified in the minutes of the records of the bank, and the oath immediately transmitted to the public examiner and filed in his office. (2986)

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

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

**6354. Restriction of directors in use of funds**—No director shall directly or indirectly, in any manner, use the funds of the bank or any part thereof except in its regular business transactions, and every loan made to any of its directors, officers, servants, or agents shall be upon the same security required of others and in strict conformity to its rules and regulations. Every such loan shall be made by the board and acted upon in the absence of the applicant. (2989)

Cited (119-459, 138+682).

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

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

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

38-85, 35+577, 8 Am. St. Rep. 643; 57-248, 59+299.

**6358. 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 (15) per cent of its capital actually paid in cash and of its actual surplus fund. Provided, however, that loans not exceeding 25% of such capital and surplus made upon first mortgage security on improved farms in the state of Minnesota, shall not constitute a liability of the maker of the notes secured by such mortgages within the meaning of the foregoing provision limiting liability, but shall be an actual liability of such maker; provided, that such mortgage loans be limited to, and in no case to exceed forty (40) per cent of the cash value of the security covered by such mortgage. 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, or of the bonds, orders or warrants of any county, town, village, or school district in this state.

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 fire-proof. (R. L. § 2993, amended '07 c. 156; '11 c. 160 § 1)

Cited (119-459, 138+682).

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

69-421, 72+701.

**6360. Real estate**—The real estate used by it for the transaction of its business may include premises leased to others, provided the entire cost does not exceed twenty-five per cent. of its actual paid-in capital and surplus. It shall hold no other real estate longer than five years, unless such time has been extended by certificate of the public examiner duly filed for record with the register of deeds of each proper county. (2995)

**6361. Reserve**—It shall always keep a reserve equal to one-fifth of all its matured or demandable liabilities, one-half of which shall be cash, including specie, legal tender, and national bank notes. The remainder may be in balances due from solvent banks. Whenever its reserve shall become impaired, it shall make no new loans or discounts except upon sight bills of exchange, nor declare any dividend, until the same has been fully restored. (2996)

66-463. 465. 69+334.

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

**6363. Insolvent banks—Examiner to take charge, when**—No banking corporation shall make an assignment by reason of existing or probable insolvency. Its governing board or managing officers, if satisfied that it is or is about to become insolvent, shall immediately report such fact to the public examiner, who, if satisfied from such report or any other source that such bank has refused to pay its deposits as required by law, has become insolvent, that its books of account are falsely or fraudulently kept, or that it has violated any provision of law, may forthwith take possession of its books, records, and property. Its property shall not be subject to attachment or levy, nor shall a receiver be appointed during such reasonable time as he may require for examination and to apply for a receiver. When appointed, the receiver shall take possession, under the direction of the court, of such books, records, and other property, collect the debts, sell or compound bad or doubtful ones, and sell all corporate property on such terms as the court shall direct, and when necessary pay corporate debts and enforce the individual liability of stockholders. He shall pay over all moneys received by him and make report of his doings to the examiner at such times and in such manner as he may prescribe. Whenever, after report by such officers and before the appointment of a receiver, said examiner shall find the bank in such condition that all creditors aside from stockholders can be paid in full from its assets, he may relinquish possession of its property to its proper officers; and whenever at any stage of the proceedings the stockholders show the court that it is able to pay all other creditors, and such showing is approved by said examiner, the court may order the property turned over to the stockholders for liquidation or other arrangement, and discharge the receiver. (2998)

Receiver may enforce individual liability of stockholders and his right is ordinarily exclusive of the right of creditors to do so (66-441, 446, 69+331, 38 L. R. A. 415; 70-358, 73+171). Actions by receiver governed by same rules as sequestration proceedings under §§ 6634-6651 (70-349, 73+169; 71-497, 500, 74+287, 70 Am. St. Rep. 352. See 67-506, 70+803). Proof of claims. Deductions (71-497, 74+287, 70 Am. St. Rep. 352). Receiver need not apply to court for leave to enforce stockholder's liability. Order granting leave not appealable (70-414, 421, 73+175. See §§ 6640, 6641). Surcharging receiver's accounts for losses from negligent management (103-129, 114+651). Liability of receiver acting under advice of counsel (106-164, 118+683, 130 Am. St. Rep. 599). Compensation of attorneys (103-129, 114+651).

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

See note under § 6634.

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

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

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

**6366. Reorganization**—Whenever it appears to the examiner by the petition of the owners of a majority of the stock of any bank which is insolvent and under the control of the court that bona fide efforts are being made to reorganize such bank, the examiner may levy an assessment upon the stockholders pro rata, according to the capital stock held by each, in such amount as he deems necessary, not exceeding their liability under the constitution, and order the board of directors to collect such assessment within sixty days thereafter. (3001)

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

See note under § 6365.

**6368. 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 [6325], and all persons and partnerships engaged in any business conducted by any of the corporations mentioned in said section. ('09 c. 179 § 1)

**6369. 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)

**6370. 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 depository, such deposits shall be preferred before all of the deposits. At any time after the expiration of a date fixed for the presentation of claims the public examiner may, out of the funds remaining in his hands after the payment of expenses, declare one or more dividends, and after the expiration of one year from the first publication of notice to creditors he may declare a final dividend, such dividends to be paid to such persons and in such amounts and upon such notice as may be directed by the said district court. Objections to any claim not rejected by the public examiner may be made by any party interested by filing a copy of such objections with the public examiner, who shall present the same to the district court at the time of the next application to declare a dividend. The court may make proper provision for unapproved or unclaimed deposits. Whenever any such bank of whose property and business the public examiner has taken possession as aforesaid, deems itself aggrieved thereby it may at any time within ten days after such taking possession apply to the district court of the county in which such bank is located to enjoin further proceedings, and said court, after citing the public examiner to show cause why further proceedings should not be enjoined, and hearing the allegations and proofs of the parties and determining the facts, may, upon the merits, dismiss such application or enjoin the public examiner from further proceedings and direct him to surrender such business and property to such bank. Whenever the public examiner shall have paid each and every depositor and creditor of such bank (not including stockholders) whose claim or claims as such creditor or depositor shall have been duly approved and allowed, the full amount of such claims, and shall have made proper provision for unclaimed and unpaid deposits or dividends and shall have paid all the expenses of the liquidation, the public examiner shall call a meeting of the stockholders of such corporation by giving notice thereof for ten days by publishing such notice in one or more newspapers of the county where the bank is located. At such meeting the stockholders shall determine whether the public examiner shall be continued as liquidator and shall wind up the affairs of such bank, or whether an agent or agents shall be elected for that purpose, and in so determining the said stockholders shall vote by ballot, in person or by proxy, each share of stock entitling the holder to one vote, and the majority of the stock shall be necessary to a determination. In case it is determined to continue the liquidation under the public examiner he shall complete the liquidation of the affairs of such corporation, and after paying the expenses thereof shall distribute the proceeds among the stockholders in proportion to their several holdings of stock in such manner and upon such notice as may be directed by the district court. In case it is determined to appoint an agent or agents to liquidate, the stockholders shall thereupon select such agent or agents by ballot, a majority of the stock present and voting, in person or by proxy, being necessary to a choice. Such agent or agents shall execute and file with the public examiner a bond to the state of Minnesota in such amount with such sureties and in such form as shall be approved by the public examiner, conditioned for the faithful performance of all the duties of his or their trust, and thereupon the public examiner shall transfer and deliver to such agent or agents all the undivided or uncollected or other assets of such corporation then remaining in his hands, and upon such transfer and delivery the said public examiner shall be discharged from any and all further liability to such bank and its creditors. Such agent or agents shall convert the assets coming into his or their possession into cash and shall account for and make distribution of the property of such bank as is herein provided in the case of distribution by the public examiner, except that the expenses thereof shall be subject to the direction and control of the said district court. In case of the death, removal or refusal to act of any

such agent or agents, the stockholders, on the same notice as that after which they were elected and in the same way, may elect a successor who shall have the same powers and be subject to the same liabilities and duties as the agent originally elected. Dividends on unclaimed deposits remaining unpaid in the hands of the public examiner for six months after the order for final distribution shall be by him deposited in one or more state banks or trust companies to the credit of the public examiner as such, in trust for the several depositors with and creditors of the liquidated bank from which they were received and to whom they belonged. The public examiner shall report semi-annually in his public report the names of banks so taken possession of and liquidated and the sums of unclaimed and unpaid deposits or dividends with respect to each of them respectively, and also a brief statement of the principal facts as to each such liquidation. The public examiner may pay over the moneys so held by him to the persons respectively entitled thereto upon being furnished satisfactory evidence of their right to the same. In cases of doubt or conflicting claims he may require an order of the district court authorizing and directing the payment of such claims. He may apply the interest earned by the moneys so held by him towards defraying the expenses incident to the payment and distribution of such unclaimed deposits or dividends to the depositors and creditors entitled to receive the same, and he shall include in his said public report a statement of the amount of interest earned by such unclaimed deposits and dividends. ('09 c. 179 § 3)

**6371. Banks in possession of examiner or in liquidation—Powers of examiner—Certificates—Certain proceedings validated—**That in all cases where the superintendent of banks of this state has taken possession of the property and business of any bank, or any such bank is in the process of liquidation by him, pursuant to the laws of this state, such superintendent may in the name of any such bank or in his own name as superintendent of banks of the state of Minnesota, for the use of any such bank, bring and carry to an end all necessary actions in the proper courts to reduce the assets of any such bank to money and to protect the property and rights of any such bank, and to that end may in the name of any such bank or in his own name as superintendent of banks, execute all bonds and other papers necessary to carry on any such actions, and may in the name of any such bank, satisfy and discharge by written instrument, any and all real estate and chattel mortgages and all other liens held by any such bank and may in the name of any such bank foreclose by advertisement in the manner provided by the laws of this state, any real estate mortgage held by any such bank and to execute in the name of any such bank to the attorney employed to foreclose any such mortgage by advertisement the power of attorney required by the laws of this state in case of foreclosure of mortgages by advertisement. Such superintendent of banks prior to any sale under such foreclosure proceedings shall file for record in the office of the register of deeds of the county where any land affected by any such foreclosure sale is situated, a certificate under his hand as such superintendent of banks, stating therein the corporate name of the bank affected; its principal place of business; that as such superintendent he has taken possession of the property and business of such bank under the laws of the state and the date of such taking possession thereof; that such bank is in process of liquidation by him, pursuant to the laws of this state if such be the fact. A like certificate shall be filed for record by such superintendent of banks in the office where any such mortgage or lien is recorded. Such certificate, or a duly certified copy thereof, shall be prima facie evidence of the facts therein set forth.

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

That where such superintendent of banks has heretofore taken possession of the property and business of any such bank or the same is in process of

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

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

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

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

**6373. Consolidation, when authorized**—With the written consent of the examiner, it may effect a transfer of its assets and liabilities to another bank for the purpose of consolidating therewith, but the same shall be without prejudice to the creditors of either. (3004)

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

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

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

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

**6378. Payment of forged or raised check—Liability to depositor**—No bank which has paid and charged to the account of a depositor any money on a forged or raised check issued in the name of said depositor shall be liable to said depositor for the amount paid thereon unless either (1) within six

months after notice to said depositor that the vouchers representing payments charged to the account of said depositor for the period during which such payment was made are ready for delivery, or (2) in case no such notice has been given, within six months after the return of said depositor of the voucher representing such payment, said depositor shall notify the bank that the check so paid is forged or raised. ('11 c. 305 § 1)

Section 3 repeals inconsistent acts, etc.

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

#### SAVINGS BANKS

**6380. Expediency to be ascertained—**To enable the public examiner to determine the expediency of the organization of a savings bank as in this chapter prescribed, he shall investigate and ascertain:

1. Whether greater convenience of access to a savings bank will be afforded to any considerable number of depositors by opening the proposed bank;
2. Whether the population in the vicinity of the location of such bank affords reasonable promise of adequate support therefor; and
3. Whether the responsibility, character, and general fitness of the persons named as trustees in the certificate are such as to command the confidence of the community in the proposed bank. (3009)

**6381. Refusal to issue certificate—Notice—**Whenever the examiner shall be satisfied that the establishment of such bank will not be expedient, he shall forthwith transmit to the register of deeds of the county of its proposed location his certificate that he has refused to issue a certificate of authorization for such bank, and such register shall forthwith file and record the same and refer thereto on the margin of the record of the declaration of the proposed trustees theretofore filed and recorded in his office. (3010)

**6382. Time for commencing business—Extension—**If it shall not commence business within one year after the issue of its certificate of authority, it shall forfeit its corporate franchises, unless allowed further time, not exceeding one year, by an order of the examiner, reciting good cause, and transmitted by him to the register of deeds. (3011)

**6383. Bonds of trustees—**Every trustee, before entering upon his duties, shall give bond to the state in a penal sum of not less than five thousand dollars, with sureties approved by a judge of the district court, conditioned for the faithful discharge of his duties, and file the same for record with the register of deeds of the county, who, after record, shall transmit it to the examiner. An action may be maintained on such bond by any person aggrieved by breach of any of its conditions, upon leave granted by any such judge, for such damages as the plaintiff may be entitled to, not exceeding its amount; and like successive actions may be maintained until such amount is exhausted. (3012)

**6384. Bond of treasurer, etc.—**Before entering upon his duties, the treasurer shall also give bond to the bank in such sum, not less than ten thousand dollars, as the board of trustees shall prescribe, for the faithful discharge of his duties, and at any time thereafter he may be required by the board to furnish additional security. The board may also require, at any time, from any other officer, employee, or agent, such security as it deems necessary. (3013)

**6385. Trustees—First board—Compensation, etc.—**The business of every such bank shall be managed by a board of not less than seven trustees. The persons named in the certificate of authorization shall constitute the first board. Each vacancy shall be filled by the board as soon as practicable, at a regular meeting thereof, except when a resolution reducing the number of trustees named in its charter to a number not less than seven shall have been incorporated into its by-laws, and a copy thereof filed with the examiner, in which case vacancies shall not be filled until the number has been reduced to that specified in such resolution. The number may be increased to any number specified in a like resolution, consented to, in writing, by said examiner. (3014)

**6386. Meetings—Quorum—**There shall be at least one regular meeting of the board of trustees every month for the transaction of business, and five trustees, shall constitute a quorum at any meeting. (R. L. § 3015, amended '07 c. 468 § 3)

**6387. 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, amended '07 c. 468 § 4)

Cited (102-199, 113+268).

**6388. Deposits—Limitation of amount—**It shall receive all sums of money offered for deposit in amounts of not less than one dollar nor more than the maximum fixed by the by-laws, which shall in no case exceed five thousand dollars, and invest the same for the use and benefit of the depositor, at such lawful rate and under such regulations as the board may prescribe, and apply the net income in payment of dividends as hereinafter provided. (3017)

**6389. Regulations—**Before receiving any deposit it shall establish reasonable and proper regulations for the conduct of its business, including the receipt, investment and repayment of deposits, and cause the same to be kept conspicuously posted in its banking room, and its regulations shall also be printed in full in all passbooks, or other evidences of deposit furnished its customers, and the same shall be prima facie evidence of the terms and conditions of their mutual transactions. (R. L. § 3018, amended '07 c. 468 § 5)

**6390. Deposits by minor or in trust—Joint deposits—**Any deposit made in any bank or savings bank, by or in the name of a minor, shall be held for the exclusive right and benefit of such minor, free from the control or lien of all other persons except creditors, and, together with the dividends or interest thereon, shall be paid to him, and his receipt, check, or acquittance in any form shall be a sufficient release and discharge to the bank for such deposit or any part thereof, until a guardian appointed in this state for such minor shall have delivered to the bank a certificate of his appointment. Whenever any deposit shall be made by any person in trust for another and no other written notice of the existence and terms of any legal and valid trust shall have been given to the bank, in case of the death of such trustee the same or any part thereof, and the dividends or interest thereon, may be paid to the person for whom the deposit was made. And whenever any deposit shall be made by or in the names of two or more persons upon joint and several account, the same or any part thereof and the dividends or interest thereon may be paid to either of such persons or to a survivor of them or to a personal representative of such survivor. (R. L. § 3019, amended '07 c. 468 § 6)

**6391. Action for deposits—Parties—Limitations—**When, in any action against a savings bank to recover money deposited therein, such money is claimed by any person not a party to the action, the court, on application of

the bank, upon eight days' notice to the plaintiff and such claimant, may order that such claimant be made a party defendant, and thereupon the court shall hear and determine the rights of the several parties to said money, which may remain on deposit at interest during the pendency of the action or be paid into court by said bank. If paid into court, the bank may be stricken from the record as a party. The statutes limiting the time for the commencement of actions shall have no application to actions brought by depositors, their representatives or assigns, against savings banks for deposits therein. (3020)

**6392. Real estate**—Any such bank may purchase, hold, or convey land sold upon foreclosure of mortgages owned by it, or upon judgments or decrees in its favor, or in settlement of debts, or received in exchange as part of the consideration of real estate sold by it. But real estate so received in exchange shall not be carried on the books of the bank at a price exceeding the cost of that exchanged, less the cash payment, and all real estate so acquired shall be sold within ten years after its acquirement, unless the time is extended by the public examiner on application of the board of trustees. (3021)

**6393. Authorized securities**—The trustees of any savings bank shall invest the moneys deposited therein only as follows:

1. In the bonds or other interest bearing obligations of the United States, or in securities for the payment of which and interest thereon the faith of the government is pledged.

2. In the bonds of any state which has not defaulted in the payment of any bonded debt within ten years prior to the making of such investment.

3. In the bonds of any county, city, town, village, school, drainage, or other district created pursuant to law for public purposes in Minnesota, or in any warrant, order, or interest bearing obligation issued by this state, or by any city, city board, town, or county therein, provided that the net indebtedness of any such municipality or district, as net indebtedness is defined by Revised Laws 1905, § 777, [1848], and its amendments, shall not exceed ten per cent of its assessed valuation, or in the bonds of any county, city, town, village, school, drainage or other district, created pursuant to law for public purposes in Iowa, Wisconsin and North and South Dakota, or in the bonds of any city, county, town, village, school district, drainage, or other district created pursuant to law for public purposes, in the United States, containing at least thirty-five hundred inhabitants; provided that the total bonded indebtedness of any such municipality or district shall not exceed ten per cent of its assessed valuation.

4. In notes or bonds secured by mortgages or trust deeds on unencumbered real estate in Minnesota, Wisconsin, Iowa, North Dakota, South Dakota, and Montana, worth when improved at least twice and when unimproved at least three times the amount loaned thereon. But not more than seventy per cent of the whole amount of the moneys of the bank shall be so loaned and such investment shall be made only on report of a committee directed to investigate the same and report its value, according to the judgment of its members, and its report shall be preserved among the bank's records.

5. In notes secured by such bonds or mortgages as the bank under this section is authorized to invest in, but no such bond or mortgage shall be taken as collateral security for more than its par value, nor shall the aggregate amount of securities taken be less than the full amount loaned thereon, and no such loan shall be made for a longer time than one year, nor to a greater amount to any one person than three per cent of the total deposits of the bank. No such bank shall loan in the aggregate, on the security specified in this paragraph, more than one-fourth of its deposits.

6. In the bonds of any railroad company, or the successor of any railroad company, which has received a land grant from the government, and whose bonds are secured by first lien upon its railroad.

7. In the bonds of any other railroad company which are secured by first lien upon a railroad within the United States, or in the mortgage bonds of any such company, of an issue to retire all prior mortgage indebtedness there-

of, or in the bonds of any railroad company in the United States which are guaranteed or assumed by another railroad company within the United States: Provided, that the railroad company, except one whose bonds are so guaranteed or assumed, either issuing, guaranteeing, or assuming any of such bonds, has not within five years prior to such investment failed in the payment of a dividend upon its entire capital stock outstanding of not less than four per cent. per annum each fiscal year, and has not within such time defaulted in the payment of any part of the principal or interest of any debt incurred by it and secured by trust deed or mortgage upon its road or any part thereof, or in the payment of any part of the principal or interest of any bonds guaranteed or assumed by it. But no such bank shall loan upon or invest in railroad bonds to an amount exceeding in the aggregate twenty per cent. of its deposits, nor exceeding five per cent. of its deposits in the bonds issued, guaranteed, or assumed by any one railroad company.

8. In the debenture stock of any railroad company owning and operating a line of road in whole or in part within the state, provided that such stock shall bear interest at the rate of at least four per cent. per annum, and shall be secured by trust deed as a first lien upon such line of railway, and that not more than five per cent. of its deposits shall be invested in such stock.

The term "authorized securities," whenever used in the Revised Laws, shall be understood as referring to the securities specified in this section. (R. L. § 3022, amended '07 c. 468 §§ 7, 8; '13 cc. 124, 506)

6394. **Expense fund, etc.**—Its board shall promptly invest all deposits except so much, not exceeding fifteen per cent, as may be required for current necessary disbursements, which it shall retain or deposit in solvent authorized banking institutions in Minnesota or in the cities of New York or Chicago or in loans payable on demand upon any of the first two classes of authorized securities to the extent only of ninety per cent of their cash market value, but never exceeding par; upon condition always that in case of depreciation below that proportion it shall be immediately restored by additional security of the same classes or at once repaid. But meanwhile so much thereof as cannot be judiciously so invested and as is not deemed necessary to be kept on hand shall be deposited daily in one or more solvent banks or trust companies. In case of the insolvency thereof, their indebtedness, if any, to a savings bank shall be preferred to that of every other creditor except the United States and this state. Whenever deemed necessary the bank may borrow such funds as may be required for such current necessary disbursements or the demands of its depositors and may pledge collateral therefor. (R. L. § 3023, amended '13 c. 506 § 2)

6395. **Prohibited dealings**—Except as otherwise provided in this chapter, it shall not directly or indirectly deal in any kind of property or engage in any other business not essential to the transaction of its own, and no officer or director thereof, except as his duties as such officer may require, shall directly or indirectly engage in lending or collecting money or protesting commercial paper, or buying, selling, or exchanging any kind of property in or about its bank. (3024)

6396. **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, amended '07 c. 468 § 9)

102-199, 113+268.

**6397. Method of determining surplus**—In determining the per cent. of surplus held by any such bank, its interest paying stock, notes, and bonds shall be estimated at their market value; notes and bonds having not more than six months' unpaid interest at their face, and real estate not above cost. As to stocks, bonds, and notes having more than six months' accrued and unpaid interest, and all other investments not herein enumerated, their value shall be determined by the public examiner, who may change their valuation from time to time. (3026)

**6398. Annual report—Assets**—On or before February 1st of each year its trustees shall cause to be made a thorough examination of all its books, vouchers and other papers and of its assets, liabilities and affairs generally by an experienced and competent accountant and make a written report upon the form prescribed by the public examiner, showing accurately its condition at the close of the preceding calendar year and specifying as to such year the amounts and particulars following:

1. The amount loaned upon notes secured by mortgages, with the names of the states or localities in which the mortgaged premises are located and the amounts paid on the principal of mortgage notes and the amount of mortgages, if any, which have been foreclosed.

2. The cost, par value and estimated market value of all bond investments, stated separately, and the amount of principal on bonds received by payment, redemption, sale or otherwise.

3. The amount of all loans upon pledge of securities, with a statement of the nature and amount of such securities and the amount paid upon the principal of such loans.

4. The amount of the notes and of the bonds upon which interest was in default at the close of the preceding calendar year.

5. The amount invested in real estate giving the description and the cost of each tract.

6. The amount of cash on hand and on deposit in banks or trust companies, giving the name of each and the amount of each deposit.

8. [sic]. Such other information as the public examiner may require. (R. L. § 3027, amended '07 c. 468 § 10)

**6399. Same—Liabilities**—Such report shall also state all its liabilities on the morning of January 1, and show:

1. The amount due to depositors, including any dividend to be credited to them for the half year ending on that day;

2. All other debts or claims against it which are or may be a charge upon its assets.

It shall also state the amount deposited during the previous year, and the amounts withdrawn during the same period; the whole amount of interest or profits received or earned, and the amount of dividends or interest credited to depositors; the number of accounts opened or reopened; the number of accounts closed during the year; and the number of open accounts at the end of the year; and such other information as may be required by the examiner. (3028)

**6400. Verification**—The report shall be verified by the oath of the two principal officers of the institution, and the statement of assets shall be verified by the oath of at least two of the trustees and of the person who made

such examination; and any wilful false swearing in regard to such reports shall be deemed perjury, and be punishable accordingly. (3029)

**6401. Violation of law—Proceedings—**Whenever it shall appear to the examiner, from an examination made by him or otherwise, that any such corporation has violated the law or is conducting its business in an unsafe or unauthorized manner, he shall by written order direct such methods to be discontinued and that its business be conducted in conformity with law. If any such corporation refuses or neglects to comply with such order, or to make any report required by law or by the examiner, or if it shall appear to the examiner that it is unsafe or inexpedient for any such corporation to continue to transact business, he shall report the facts to the attorney general, who shall take such action thereon as the case requires. Such action may be for the removal of one or more of the trustees of such corporation, the transfer of its corporate powers to other persons, its merger and consolidation with another like corporation willing to accept the trust, or such other appropriate action as the facts may require; and the court may grant any such relief in the interests of justice, and, to protect the rights of the parties, may from time to time revoke or modify its orders made in the matter. (3030)

64-349, 354, 67+1.

**6402. Change of name—**Whenever a resolution shall be adopted by the trustees of such bank expressing their purpose to change its name, they shall cause notice of such purpose, containing the present and proposed name, to be published in the manner provided in this chapter for publication of notice of intention to organize. On completion of such publication, said trustees shall make application to the public examiner to change the name of such bank as specified in such resolution and publication, accompanied by proof of the adoption of the resolution and publication of notice. If such change be approved by the examiner, he shall authorize and direct the same by an order under his hand and seal, and designate a day, not more than thirty days from its date, when such change shall take effect. He shall execute such order in triplicate, one to be filed with the register of deeds of the county where the bank is situated, one delivered to the bank, and the other filed in his office. From the date named in such order, such bank shall be known and designated by its new name, and under such name shall have the same rights and powers and be subject to the same liabilities as before the change. (3031)

**6403. Existing banks conformed—Exceptions—**The powers, privileges, and duties conferred and imposed on any savings corporation heretofore organized, by its charter or act of incorporation, are hereby abridged, enlarged, or modified, as each case may require, so that each such charter or act shall be conformed to the provisions hereof; and every such savings corporation shall possess the powers and privileges, and be subject to the duties, liabilities, and restrictions, herein prescribed; but investments heretofore lawfully made shall be unaffected by this section, if the same be conformed to the provisions of this subdivision as rapidly as may be, in the ordinary course of business, without loss or embarrassment to the bank and its patrons: Provided, that savings banks organized and existing prior to the passage of Laws 1879 c. 109 may continue under the laws then in force applicable thereto and amendatory thereof until they reorganize hereunder, unaffected by any provision in the Revised Laws repealing the same, expressly or by implication. (3032)

**6404. Banks organized under Laws 1867—Capital stock—Amendment of articles—**Any corporation which was incorporated and organized under the General Laws of the state of Minnesota for 1867 for the purpose of doing a savings bank business, may have capital stock of one hundred dollars (\$100) per share, par value, provided such capital shall be at least the sum of twenty-five thousand dollars (\$25,000) in a municipality having a population of not over three thousand (3000); at least fifty thousand dollars (\$50,000) in one over three thousand (3000) and not over ten thousand (10,000); at least seventy-five thousand dollars (\$75,000) in one over ten thousand (10,000) and not over twenty thousand (20,000); at least one hundred thousand dollars (\$100,000) in one over twenty thousand (20,000) and not over one hun-

dred thousand (100,000) and at least two hundred thousand dollars (\$200,000) in one over one hundred thousand (100,000), and may amend its articles or certificate of incorporation so as to provide for such capital stock by adopting a resolution specifying the proposed amendment at a regular meeting or a special meeting called for that expressly stated purpose by a majority vote of its entire board of directors, trustees or other managers, and by causing such resolution to be embraced in a certificate duly executed by its president and secretary or other presiding and recording officers, under its corporate seal, and approved, filed, recorded and published in the manner now prescribed for the execution, approval, filing, recording and publishing of a like original certificate. ('11 c. 332 § 1)

#### TRUST COMPANIES

**6405. Capital—Amount and character of deposits—**The capital of every trust company hereafter organized having its principal place of business in any city of less than twenty-five thousand inhabitants shall be not less than fifty thousand dollars; the capital of every trust company hereafter organized having its principal place of business in a city of more than twenty-five thousand and less than one hundred thousand inhabitants shall be not less than seventy-five thousand dollars; the capital of every trust company hereafter organized having its principal place of business in a city of more than one hundred thousand and less than two hundred thousand inhabitants shall be not less than one hundred thousand dollars; and the capital of every trust company hereafter organized having its principal place of business in a city of more than two hundred thousand inhabitants shall be not less than two hundred thousand dollars; but the capital stock of any trust company shall not be in excess of two million dollars. No trust company hereafter organized shall transact any business until all of its authorized capital stock has been paid in, in cash, or, if such authorized capital be more than two hundred thousand dollars, until at least two hundred thousand dollars thereof has been paid in, in cash, and at least fifty per cent of the capital of all trust companies of less than two hundred thousand dollars and twenty-five per cent of the capital of all trust companies of two hundred thousand dollars or more hereafter organized has been invested in one or more of the first, second, third, fourth, seventh and eighth classes of authorized securities, duly assigned and transferred to and deposited with the superintendent of banks, and his certificate thereof procured; or, if its capital be more than two hundred thousand dollars, until at least one-fourth thereof has been so invested, assigned, transferred and deposited, and such certificate thereof procured. Before issuing such certificate, the superintendent of banks 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 any trust company may be reduced with the approval of the superintendent of banks, but not below the respective minimum amounts aforesaid, and no assets shall be returned to the stockholders unless its deposits of authorized securities after such return equal one-fourth of such reduced capital in no event less than twenty-five thousand dollars; nor shall the liability of any stockholder upon any existing contract be affected thereby. (R. L. § 3033, amended '07 c. 225; '11 c. 314 § 1)

Authorized securities (85-1, 7, 88+256).

**6406. Qualifications of directors—Oath—Vacancies—**Each director shall own at least ten shares of its capital stock, and a majority of them shall be residents of this state. Each shall take and subscribe an oath that he will diligently and honestly perform his official duties, and will not knowingly violate or permit to be violated any provision of law relating to trust companies, and that he is the owner in good faith of the stock above specified standing in his name on the books of the corporation; the taking of such oath to be noted on the minutes of the records of the corporation, and filed with the public

examiner. Failure of any person selected as director to qualify shall create a vacancy in the board, which shall be filled by the qualified members. (3034)

**6407. Investments in real estate, etc., how limited**—Such corporation may acquire, use, and improve, and for that purpose mortgage, lease, sell, and convey, such real and personal property as may be necessary for the transaction of its business. Any estate or interest in real estate which it may acquire by virtue of the foreclosure of any mortgage, trust deed, or other security, or by the settlement of any obligation or otherwise, in the course of its legitimate business, it may sell or continue to hold and use as deemed for its interests or those of the estate or trust to which the same belongs, and to that end it may become the purchaser at any foreclosure or judicial sale to which it is a party as trustee or otherwise. It may also accept or make any deed, mortgage, or other instrument necessary for the transaction of its business, may loan money and secure such loans by mortgage, trust deed or pledge, purchase notes, bonds, mortgages, and other evidences of indebtedness, and securities, and sell and assign the same, and convert them into cash or into other authorized securities, or securities and property not herein expressly prohibited. It may guarantee a title to securities sold and transferred by it; may become sole surety upon any bond without justification; and may maintain and operate safe deposit vaults. It shall invest none of its capital or surplus in real estate except as herein authorized, nor any of its deposits or trust funds or property therein except as so authorized, or under or by virtue of an express contract, judgment, or other instrument conferring or imposing special power and authority so to do. (3035)

**6408. May act as agent or attorney in fact**—It may take and hold in trust any real or personal property, wherever situated, by order, judgment, or decree of any court of record, or by gift, grant, assignment, transfer, devise, legacy, or bequest from, or by lawful contract with, any public or private corporation or individual, and manage the same upon the terms, conditions, limitations, and restrictions therein declared or imposed. It may also act as agent for the signature, counter-signature, registration, transfer, or redemption of certificates of stock, bonds, coupons, or other evidences of indebtedness of any such corporation or individual, or otherwise act as general or special agent or attorney in fact in the acquisition, management, sale, assignment, transfer, incumbrance, conveyance, or other disposition of any real or personal property, the collection of rents, payment of taxes, and generally as the representative of any such corporation or individual. (3036)

**6409. May receive deposits of trust and other funds**—It may take and hold on deposit or for safe-keeping money, bonds, stocks, and other securities or personal property which any public officer, or any trustee or other legal representative, or any public or private corporation or person may desire or shall be authorized, ordered, or otherwise required by law to deposit in a bank or other safe depository, or to pay into any court of record; and the same may, instead thereof, be paid into or deposited with any such trust company, and, where the deposit is made pursuant to order of court, in such as the court shall designate, and take the receipt of such trust company therefor; and thereupon the depositor and his sureties shall be relieved from liability thereafter accruing so long as such deposits continue. (3037)

Last clause constitutional (78-228, 80+1118).

**6410. May act as assignee, receiver, executor, etc.**—It may act as assignee under any assignment for the benefit of creditors, or be appointed and act as a trustee or receiver, as a guardian, as executor of any will, or administrator of any estate, and may accept and perform any other lawful trust conferred by any court, or by any corporation or individual. In the acceptance and performance of any such trust, no oath or security shall be required. (3038)

As guardian (40-7, 41+232, 2 L. R. A. 418).

**6411. Deposit with trust company instead of larger bond**—Whenever new or additional security shall be required from any executor, administrator, guardian, assignee, receiver, or other trustee, if the judge or court having jurisdiction deems it expedient, because of the magnitude of the estate or fund or otherwise, to require the maximum security prescribed by law, it may di-

rect any securities belonging thereto to be deposited with any trust company, subject to the order of such trustee, when countersigned by such judge, and fix the amount of the security with reference only to the remainder. No such security shall be withdrawn, nor any part of the principal or interest thereof collected, except by an officer of such company, without the order of such judge duly entered and certified, upon satisfactory proof that additional security has been furnished, or that the estate or fund has been so reduced that such deposit is no longer required. (3039)

**6412. Investment of trust funds—Responsibility of corporation—**It may invest all moneys received by it in trust in authorized securities, and shall be responsible to the owner or cestui que trust for the validity, regularity, quality, value, and genuineness of such investments and securities so made, and for the safe-keeping of the securities and evidences thereof. Whenever special directions are given in any order, judgment, decree, will, or other written instrument as to the particular manner or the particular class or kind of securities or property in which any investment shall be made, it shall follow such directions, and in such case it shall not be further responsible by reason of the performance of such trust. In all other cases it may invest the same in any of said authorized securities, using its best judgment in the selection thereof, and shall be responsible for their validity, regularity, quality, and value thereof at the time made, and for their safe-keeping. It may, in its discretion, retain and continue any investment and security or securities coming into its possession in any fiduciary capacity. (3040)

**6413. Transfer of trusts to company—Condition—**The trustees of any estate or property may surrender and resign such trust in favor of such trust company which will accept the same, and convey and deliver to it all property and assets of such trust, upon condition that the grantor, cestui que trust, and all parties in any manner interested in the execution and performance of such trust shall execute, acknowledge, and deliver an instrument in writing, whereby they shall consent to such transfer and the release and discharge of the original trustee, and the appointment of such trust company as his successor. But if either party to the original trust is dead, or does not join in such written consent, or if such original trust was created under a last will, or an order or decree of a court of record, then such transfer shall not be valid except upon the judgment or decree of such court as would have jurisdiction of an action to remove the acting trustee, and full compliance with the terms and conditions of such judgment or decree. (3041)

**6414. Compensation—Commission not deemed interest—**For the faithful performance of its duties and discharge of its trust it shall be entitled to reasonable compensation, or such amount as has been or may be agreed upon by the parties, and all necessary expenses, with legal interest thereon, unless otherwise agreed upon. No compensation or commission paid or agreed to be paid by it for the negotiation of any loan, or the execution of any trust, shall be deemed interest within the meaning of the law, nor shall any excess thereof over the legal rate be deemed usury. (3042)

**6415. Trust funds—Investment of accumulations—**Any amount not less than one hundred dollars received by it as executor, administrator, guardian, or other trustee, or by order of court, not required for the purposes of such trust, or not to be accounted for within one year, it shall invest as soon as practicable in authorized securities either then held by it or specially procured by it; and the income, less its proper charges, shall become part of the trust estate, and the net accumulations thereon shall be likewise invested, accounted for, and allowed in the settlement of such trust. (3043)

**6416. Trust accounts to be kept separate—Securities, how deposited—**Besides its general books of account, it shall keep separate books for all trust accounts. All funds and property held by it in a trust capacity shall at all times be kept separate from the funds and property of the corporation, and all deposits by it of such funds in any banking institution shall be deposited as trust funds, to its credit and as trustee and not otherwise. Every security in which trust funds or property are invested shall at once, upon receipt thereof, be indorsed and transferred to it as trustee, executor, administrator, guardian, re-

ceiver, assignee, or other trustee, as the case may be, and not in blank or otherwise, and immediately entered in the proper books as belonging to the particular trust whose funds have been invested therein. Any change in such investment shall be fully specified in and under the account of the particular trust to which it belongs, so that all trust funds and property can be readily identified at any time, by any person. (3044)

85-1, 88+256.

**6417. Dealings and indebtedness prohibited**—It shall not engage in any banking, mercantile, manufacturing, or other business, except such as is herein expressly authorized for such a corporation. It shall not lend its funds, moneys, capital, trust funds, or any other property whatsoever, to any director, officer, agent, or employee, nor shall any such director, officer, agent, or employee become in any manner indebted to it by means of any overdraft, promissory note, account, indorsement, guaranty, or any other contract; and any such director, officer, agent, or employee who shall become so indebted to it shall be guilty of larceny of the amount of such indebtedness from the time of its creation. (3045)

On trial of officer charged with appropriating company's funds to his own use by becoming indebted to it, guilty intent may be inferred from mere fact of indebtedness. On trial of one charged with larceny under R. L. § 5078 [8870] subd. 2, it was error to charge jury that in determining intent they might consider § 6417 (108-227, 122+4).

Provisions of 1883 c. 107 § 11 were re-enacted in this section. Indictment sufficient (108-230, 122+11).

Constructive trust arising from misappropriation of funds (118-179, 136+861).

**6418. Powers of court—Annual report**—Every such corporation shall be subject at all times to the further orders, judgments, and decrees of any court of record from which it shall have accepted any trust, appointment, or commission as to such trust, and shall render to such court such itemized and verified accounts, statements, and reports as may be required by law, or as the court shall order in relation to a particular trust. It shall also be subject to the general jurisdiction and authority of the district court of the county of its principal place of business. On or before June 30 in each year it shall render to the public examiner a full and detailed account of its condition, and such further accounts, either in full or in part, or in relation to any particular investments, trusts, funds, or other business as the examiner may from time to time direct or request; and a condensed statement of such annual account, together with a list of its board of directors, approved by the said examiner, shall be published by such corporation in a newspaper of the county of its principal place of business. (3046)

**6419. Violation of law or insolvency—Procedure**—The directors and managing officers of such corporation, whenever satisfied that it is, or is about to become, insolvent, shall immediately report such fact to the public examiner; and whenever said examiner shall be satisfied from such report, or from any examination made by him that it is conducting its business in an unlawful or unsafe manner, or that it is insolvent, he may at once take possession of its books, records, and assets, which shall not be subject to any levy or attachment, nor shall any application for a receiver be entertained by any court, during such reasonable time as may be necessary for further examination. If upon such examination it shall appear to said examiner that its business is being conducted in a safe and lawful manner, and that all creditors except those represented by stock can be paid in full from the assets, he may relinquish possession of its assets to its directors and officers; otherwise he shall apply to a court for the appointment of a receiver, who shall take possession of all its books, records, and assets, and close up its affairs under the direction of the court: Provided, that if at any stage of the proceedings the directors or stockholders shall satisfy the court that such corporation is able to pay all creditors other than themselves, if such showing is approved, after investigation by the examiner, the court may order the return of the assets to the company for liquidation or such other course as the stockholders, in compliance with law, may determine; and in such case the receiver shall be discharged. (3047)

64-349, 354, 67+1.

**6420. 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)

Section 4 repeals inconsistent acts, etc. See §§ 6423, 6424.

**6421. 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 preceding section.

**6422. 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 § 6420.

**6423. 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)

See §§ 6420–6422.

**6424. 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

**6425. Purpose**—Building and loan associations may be formed for the accumulation of funds to be loaned to their members, to be secured as hereinafter provided; and hereafter no such corporation shall be organized or operated for any such real or nominal purposes otherwise than as herein prescribed. (3048)

**6426. Limits of operations**—Every such corporation hereinafter formed, by provision in its certificate of incorporation or by-laws, within six (6) 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 superintendent of banks, specifying the added counties in which it desires to do business, and on receiving the approval of the superintendent of banks shall be duly authorized to do business in those counties, which shall not exceed eight (8) in number. (R. L. § 3049, amended '13 c. 302 § 1)

**6427. Loans and securities—Powers**—For every loan made on real estate security a non-negotiable note or bond secured by first mortgage shall be given, which security shall be satisfactory to the directors and shall be accompanied by a transfer and pledge of the shares of stock of the borrower to the association. The shares so pledged shall be held as collateral security for

the performance of the conditions of said note or bond and mortgage: Provided, that the shares, without other security, may be accepted in the discretion of the directors as security for loans to an amount not exceeding ninety per cent. of their cash or withdrawal value, as herein provided. Any such association may provide by contract with its borrowers that loans shall be fully paid at a definite period upon receipt of the specified number of payments. The association may purchase tax or assessment titles or liens affecting property in which it is in any manner interested; and it may borrow money for any legitimate object of its incorporation. (3050)

**6428. Capital—Stock—Deposits—**Every such association heretofore or hereafter formed shall have an authorized capital of at least fifteen thousand dollars (\$15,000). It shall not issue or create any preferred or non-contributing stock, but it may issue different series of stock, either prepaid in lump sums or to be paid for in monthly installments, each to share equally in the profits and contribute equally to the losses and expenses according to their book value. It shall not solicit or receive deposits, except as in payment for stock, nor issue certificates of deposit, but it may borrow money in stipulated amounts and have fixed periods as the association may need in the conduct of its business, at a rate of interest not exceeding eight (8) per cent per annum. Such indebtedness shall, however, at no time exceed ten (10) per cent of its outstanding loans secured by real estate mortgages. (R. L. § 3051, amended '13 c. 482 § 1)

**6429. Bids and loans—**The terms and conditions upon which it shall receive applications for loans to its members, and consider and vote upon the same, shall be just, equitable, and uniform, and shall be prescribed in full in its by-laws. (3052)

**6430. Profits and expenses—**Whenever a distribution or calculation of profits is made, which shall be at least semiannually, it shall first deduct therefrom its expenses for the same period if such profits are sufficient; if not, the balance of such expenses shall be carried as "expenses paid," and be deducted from the earliest future net profits. Such balance shall be charged to an account called "permanent expense," and finally be paid by a proportionate deduction from the value of each matured share of stock. The remainder shall be deemed the true maturity value of such stock. (3053)

**6431. Premiums not usury—**No premiums for loans made by such association shall be considered or treated as interest or render it amenable to usury laws. (3054)

**6432. Withdrawals—**The holder of any shares not in arrears or pledged may withdraw the same upon thirty days' written notice to the secretary of his intention so to do, given at any time after the expiration of six months from the payment of the first cash instalment thereon; whereupon his rights to profits and liability for indebtedness for the future shall cease, and he shall receive the amount of such instalments, less all arrears and fines. But not over fifty per cent of its monthly receipts shall be so used unless otherwise determined by resolution of the directors. (3055)

**6433. Stock when and how sold—**Whenever any instalment, fine, or penalty upon any of its stock continues delinquent for three months, the directors may, and whenever such delinquency continues for one year shall, cause such stock to be sold according to its by-laws, at a regular monthly meeting, to the highest bidder for cash, and, if there be no outside bidder, to be bought in by one of the officers for the corporation, but no stock shall be sold or bought in for less than its withdrawal value. (3056)

**6434. Dealing in real estate prohibited—**No such association shall engage in the business of buying and selling or dealing in real estate, but it may secure obligations due to it and the payment of its loans by taking real estate mortgages. It may purchase at any sheriff's, judicial, or other sale, public or private, any real estate upon which it has a mortgage, judgment, or other lien, or in which it has any interest. It may acquire title to any real estate on which it holds any lien, in full or part satisfaction thereof, and may sell, convey, hold, lease, or mortgage the same. (3057)

**6435. Application of the foregoing provisions**—Save as hereinafter provided, the provisions of §§ 6425-6434 shall apply to all building and loan corporations hereafter formed. (3058)

**GENERAL BUILDING AND LOAN ASSOCIATIONS**

**6436. Application of certain provisions**—Sections 6427, 6430 and 6431 shall apply also to existing domestic building and loan associations authorized to transact a general business throughout the state, and the provisions of §§ 6437-6444 shall apply exclusively to such last named corporations. (3059)

No provision made by R. L. 1905 for the future organization of general building and loan associations. See Report. Revision Commission p. 24.

**6437. 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, amended '09 c. 24 § 1)

**6438. Interest, etc., on securities—Surrender**—So long as it remains solvent and faithfully performs all contracts with its members, it may collect and retain all interest, dividends, and premiums accruing on such securities, all dues or monthly payments on stock pledged as collateral thereto, and all balances due or any part thereof. Whenever the minimum required by law will not be reduced thereby, any mortgage or other security so deposited may be withdrawn with the approval of the examiner upon satisfactory proof by affidavit that it has been paid or sold or hypothecated or is needed for foreclosure. (3061)

**6439. Powers**—Such association may make loans on real estate security to, and receive deposits from, its members and others; it may purchase at any sale, public or private, any real estate upon which it may have a mortgage, judgment, or other lien, or in which it may have any interest, and may sell, convey, mortgage, lease, or improve the same. It may acquire a lot or lots on which a building or buildings may be erected for the convenient transaction of business, and lease such portions thereof as may not be required for its own use. (3062)

**6440. Kinds of stock prohibited and allowed**—No such domestic association shall issue preferred stock, but may issue different series of stock. It may issue deposit stock upon the terms and conditions provided in the by-laws; instalment stock to be paid in periodical sums, which shall mature when the amount so paid with the dividends thereon shall equal its par value; a dividend bearing prepaid stock, upon which a partial dividend may be paid semiannually out of the full dividend apportioned thereto; and full-paid stock upon which the par value thereof shall be paid in advance, and upon which a full or a definite dividend may be paid, not exceeding the per cent. of profits earned by all classes or series of stock at the time when declared, and in the certificate of such stock the right of withdrawal may be waived for a definite time. Such association may issue permanent stock for which the full par value shall be paid at the time of issue, or in such instalments as may be provided in its by-laws, and which shall be entitled to dividends not exceeding the per cent. of profits earned by all fully participating classes of stock at the time the dividend is declared, to be credited to the stock until the same is fully paid, and afterwards paid in cash. The balance of profits, if any, and the principal paid on such stock shall not be paid to holders thereof so long as such association shall have any other legal obligations outstanding. No such association shall issue any certificates of shares until the terms and conditions thereof shall have been approved by the state examiner. (3063)

**6441. Withdrawal of stock—Valuation—Times**—Any holder of prepaid or instalment stock, except permanent stock, whose shares are not in arrears or

pledged for a loan, may withdraw the same after twenty-four months from the date of the first payment, and not before. But the board of directors, at any earlier date, may buy in the shares of any such stockholder desiring to withdraw, by paying him the amount paid in thereon less agreed discount of not more than eight per cent. Any such shareholder may give written notice of withdrawal to the secretary, and his liability for further instalments and right to share in future profits shall thereupon cease. At the end of two years he shall receive all monthly payments made on such shares, not including admission fees, less fifty cents for issue and cancellation of certificate, and two per cent. of amount paid, for reserve fund, but, if such shares be in arrears, there may also be deducted a fine of ten cents per share for each thirty days of such delinquency. Failure to give such notice and make payments shall subject any stockholder to a fine of ten cents per share per month, for a period of six months after the last payment made. If the arrearages and fines remain unpaid for six months, the balance of such monthly payments, if any, after deducting the certificate fee, contingent fund, and fines, shall be subject to withdrawal after twenty-four months from first payment, on application of stockholder. If such delinquent shares are not called for within twenty-four months from date of last payment, the balance, if any, to the credit of such shares shall be transferred to the reserve fund, and the stockholder shall have no further claim thereon. If such withdrawing member has made twenty-four or more payments, he shall receive the amounts so paid, less the deductions hereinbefore specified, and three-fourths of the net profits credited to his stock. No more than one-half the monthly receipts on withdrawable stock shall be used to pay the withdrawal or maturity value of stock, unless otherwise determined by resolution of the directors. (3064)

**6442. Reserve fund**—At the close of each dividend period it shall set apart for a reserve fund not less than five nor more than ten per cent. of the profits for such period, to which shall be added two per cent. of the aggregate instalments paid on all instalment stock withdrawn before maturity, on notice, after two years, and the amount to the credit of all stock delinquent more than two years. (3065)

**6443. Report to public examiner**—At the close of each fiscal year of the association the directors shall cause to be made a thorough examination of all its books, vouchers, and other papers, and of its assets, liabilities, and affairs generally for the preceding fiscal year, and a detailed report thereof to the stockholders or members in duplicate on a form prescribed by the examiner, and one copy thereof to be delivered to him within thirty days from the close of such fiscal year together with the prescribed fee, and the other to the stockholders at their annual meeting. It shall contain the following statements: (1) The authorized capital and par value of each share; (2) the number sold during the year; (3) the number canceled or withdrawn; (4) the number remaining in force; (5) the receipts and disbursements; (6) the assets and liabilities. It shall show the amount received as dues under each separate class of stock, and all deductions therefrom for expenses, withdrawals, cancellations, forfeitures, refundments, or otherwise, the profits, if any, credited or subject to credit, the number of shares of each monthly issue or series in force, and the amounts paid in salaries, wages, traveling expenses, rent, postage, telegraph and express charges, printing, books, stationery, furniture, office supplies, advertising, and commissions to agents and others. If it appears from such report that said corporation is solvent and is able to meet its obligations, the examiner shall within thirty days issue a new certificate authorizing it to transact business for one year from the date of such report. The secretary shall also transmit to the examiner promptly a certified copy of every semiannual report to its stockholders or members. (3066)

99-62, 108+472.

**6444. Name, what to include**—Building and loan associations, as referred to in §§ 6436-6443, shall include all corporations doing savings and loan or investment business on the building society plan. (3067)

## CERTAIN INVESTMENT COMPANIES

**6445. Investment companies under control of superintendent of banks—**No person and no co-partnership, association or corporation, whether local or foreign, heretofore organized or which may hereafter be organized, doing business as a so-called investment, loan, benefit, co-operative, home, securities, trust or guarantee company for the licensing, control and management of which there is no law now in force in this state, and which such person, co-partnership, association or corporation shall solicit payments to be made to himself or itself either in a lump sum, or periodically, or on the installment plan, issuing therefor so-called bonds, shares, coupons, certificates of membership or other evidences of obligation or agreement or pretended agreement to return to the holders or owners thereof money or anything of value at some future date, shall solicit or transact any business in this state, unless such person, co-partnership, association or corporation shall have first complied with all the provisions prescribed in chapter 58 of the Revised Laws of Minnesota, 1905, required of general building and loan associations doing business in this state. ('09 c. 333 § 1, amended '11 c. 321 § 1)

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

**6446. Supervision of superintendent—Powers, how exercised—Fees—**The persons, co-partnerships, associations and corporations mentioned or enumerated in the foregoing section are hereby put under the supervision of the state superintendent of banks. The powers, authority, privileges and duties conferred upon him for the purpose of examining, supervising, controlling and regulating the action of each and every class of financial institutions, to the full extent to which he may at any time lawfully exercise them, shall each and all, so far as applicable, be exercised by him personally or by deputy in the examination, supervision, control and regulation of the persons, co-partnerships, associations and corporations first hereinbefore mentioned. The fees for examination shall be those prescribed by law for the examination of state banks and the actual necessary expenses incurred by the state superintendent of banks in and tending toward the performances of its duties and the exercise of its powers herein referred to shall be paid by the person or institution examined or supervised. ('09 c. 333 § 2, amended '11 c. 321 § 2)

**6447. 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)

**6448. Plan to be submitted—Permit—**The persons, co-partnerships, associations and corporations hereinbefore referred to are hereby required to lay before the superintendent of banks a comprehensive plan of their intended business; and the superintendent of banks shall consider the same and, if he finds that the same contains no feature or essential proposition which is likely to be injurious to or defraud the public, he shall issue a permit for such person or institution to begin business according to such plan; otherwise such person or institution shall not engage in such business in this state. ('11 c. 321 § 3)

## OTHER CORPORATIONS FOR PROFIT

## MANUFACTURING CORPORATIONS

**6449. Formation—Purpose—**A corporation may be formed for the purpose of engaging in any manufacturing or mechanical business not inconsistent with

an honest purpose. The amount of its capital stock shall be fixed and limited by the stockholders in their certificate of incorporation, and shall be divided into shares of not less than ten dollars nor more than one hundred dollars each, but may be increased at any stockholders' meeting called for that purpose. (3068)

A corporation cannot be organized under this section except for an exclusively manufacturing or mechanical business (40-213, 222, 41+1020, 3 L. R. A. 510). What constitutes a "manufacturing" or "mechanical" corporation within Const. art. 10 § 3 exempting stockholder from liability (90-144, 95+767 and cases cited; 65-263, 68+48, 33 L. R. A. 508, 60 Am. St. Rep. 471; 84-408, 87+1016; 90-501, 97+140).

Issue of preferred stock (192 Fed. 945).

**6450. Withdrawal of capital—Liability of stockholders—**If the capital stock of a manufacturing corporation is withdrawn and refunded to the stockholders before the payment of corporate debts for which it would have been liable, the stockholders shall be liable to any creditor, to the amount of the sum so refunded to each of them, respectively; but if, in any action under this statute, any stockholder shall be compelled to pay any such debt, he may call upon every stockholder to whom any part of such stock has been refunded to contribute his proportionate share of the sum so paid by him. If the directors shall pay a dividend when such corporation is insolvent, knowing such corporation to be insolvent, or that such dividend would render it so, or when its payment would render it insolvent, those assenting thereto shall be jointly and severally liable in an action on the statute for all debts due from such corporation at the time of such dividend. Every officer who shall intentionally neglect or refuse to perform any duty imposed upon him by law shall be liable for all corporate debts contracted during the period of such neglect, and if the corporation shall violate any provision of law, whereby it becomes insolvent, the directors ordering or assenting to such violation shall be liable in an action under the statute for all debts contracted after such violation. (3069)

After insolvency of corporation and appointment of receiver he alone can sue for capital wrongfully withdrawn (44-37, 46+310). Liability of directors assenting to or engaging in ultra vires corporate acts (41-84, 42+926, 4 L. R. A. 745, 16 Am. St. Rep. 671; 84-408, 87+1016). Action by single creditor to enforce liability of directors. Practice (41-84, 42+926, 4 L. R. A. 745, 16 Am. St. Rep. 671. See 44-37, 40, 46+310; 61-375, 393, 63+1079). Limitation of actions (48-349, 51+117; 66-213, 68+976; 78-124, 80+853, overruled).

#### FOR MINING AND OTHER PURPOSES

**6451. Formation—Purpose—**A corporation may be formed for the purpose of mining, smelting, reducing, refining, or working ores or minerals, or for working coal mines or stone quarries and marketing the products, or for manufacturing brick, stone, iron, steel, copper, or other metals, or for buying, working, selling, and dealing in mineral or other lands, or for the whole or any part of said purposes. (3070)

Articles of incorporation held authorized by this section (65-281, 68+49, 33 L. R. A. 510).

**6452. Meetings—Stock in other companies—Fraudulent issue of stock—**The directors, managing officers, or stockholders of a mining corporation may meet and transact business without the state, and may establish offices elsewhere; but an office shall always be maintained within the state where legal process may be served. Every such corporation may acquire and hold stock in any other corporation, if a majority in amount of the stockholders agree thereto. Every officer of such corporation or other person who shall fraudulently issue or cause to be issued any stock, scrip, or evidence of corporate debt, or who shall sell, offer for sale, hypothecate, or otherwise dispose of any such stock, scrip, or evidence of debt, knowing the same to be fraudulently issued, shall be guilty of a felony. (3071)

Acquiring stock in other corporation (65-263, 270, 68+48, 33 L. R. A. 508, 60 Am. St. Rep. 471).

#### MORTGAGE AND LOAN COMPANIES

**6453. Powers—**Mortgage loan companies may acquire, hold, sell, hypothecate, assign, transfer, and convey any obligations thereof, or of any person or other corporation, which are secured by mortgage or other real estate security, and collect, foreclose, compound, compromise, release, satisfy, and discharge the same of record. (3072)

## FARM MORTGAGE DEBENTURE COMPANIES

**6454. 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)

Section 26 repeals inconsistent acts, etc. See §§ 6140-6143.

**6455. Capital—"Debenture" in name**—Such corporation shall have a paid up capital of at least forty thousand dollars, and the word "debenture" shall be part of its corporate name. ('05 c. 93 § 2, amended '07 c. 238)

**6456. 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)

See §§ 4624-4635, 6141-6143.

**6457. 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)

**6458. 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)

**6459. Debentures, how issued and negotiated**—Such corporation may issue and negotiate its debentures in the following manner:

1st. The debentures may be issued in series of not less than \$10,000 each, the respective series to be identified by a common serial letter, and the debentures of a given series to be numbered consecutively.

2nd. As security for the total amount of any given series of debentures, there shall be set apart, in the manner provided by this act, mortgages aggregating in amount at least ten per cent more than the total amount of such debentures.

3rd. Such corporation shall file for record in the office of the register of deeds in each county in which the mortgages securing any given series of debentures are recorded an instrument of transfer, which shall contain a description of each of such mortgages in such county, and shall recite that such mortgages are held by such corporation as security for a certain series of its debentures, giving the date, amount, serial letter and number of each said debentures; when so recorded such instrument shall have the effect to transfer and assign every such mortgage to such corporation as trustee, to be thereafter held by it for the use and benefit of the holder or holders of such debentures.

4th. Such corporation shall file with the public examiner, before any series of debentures are negotiated, an instrument giving the description of such series, showing the date, serial letter, number, amount and terms of each debenture, a description of each mortgage held to secure the same, the appraised value of each tract of land described therein, and the date and place of record of the instrument of transfer required by subdivision 3.

A record of such instrument shall be made by the public examiner in a book to be kept for that purpose; at the time such record is made the public examiner shall certify on each of such debentures that the provisions of this section have been fully complied with. ('05 c. 93 § 6)

**6460. 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 [6458] 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 [6459]; 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)

**6461. 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)

**6462. 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)

**6463. 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)

**6464. 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)

**6465. 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)

**6466. 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)

**6467. 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)

**6468. 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)

**6469. 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. [6458] but no debentures shall be issued on such mortgages. ('05 c. 93 § 16)

**6470. 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 [6460] 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 [6460]. 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)

**6471. 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)

**6472. 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)

**6473. 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 busi-

ness 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)

**6474. 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)

**6475. 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)

**6476. 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)

**6477. 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)

**6478. 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

**6479. Formation—Purposes**—A co-operative association may be formed for the purpose of engaging in any lawful mercantile, manufacturing, or agricultural business. Its certificate of incorporation shall be filed for record with the register of deeds of the county of its principal place of business, and thereupon it shall become a corporation. A majority of the incorporators shall be residents of the county of its principal place of business, and its duration without renewal shall not exceed twenty years. (3073)

See §§ 6480, 6481, 6487-6489.

Effect of defective incorporation (70-303, 73+147; 93-8, 100+387).

**6480. Formation—Rural telephone business—Powers**—Seven or more persons of lawful age, inhabitants of this state, may, by written articles of agreement, associate themselves together for the purposes of trade or for carrying on an [any] lawful mercantile, manufacturing, agricultural or rural telephone business within this state; and when such articles of association shall have been executed and recorded in the office of the clerk of the city or town in which the business is to be carried on, such persons, shall be and become a corporation, and enjoy all the powers and privileges, and can buy and hold stock in other corporations organized for the same general purpose, and be subject to all duties, restrictions and liabilities set forth in all general laws in relation to similar corporations, except so far as the same may be limited or enlarged by this act. (G. S. 1894, § 2903, amended '05 c. 276 § 1)

**Historical**—G. S. 1894 § 2903 was 1870 c. 29 § 1, which act was repealed by § 9433; the provisions of said section 1 being incorporated in part in the preceding section. So far as the above section differs from the Revised Laws, it is to be construed, by virtue of § 9398, as amendatory or supplementary. See following section.

Whether rural telephone company was public service corporation, and as such under legal obligation to afford telephone facilities over its line to all applicants, *quere?* (139+711).

**6481. Same**—A co-operative association may be formed for the purpose of engaging in any lawful mercantile, manufacturing, agricultural or rural telephone business. Its certificate of incorporation shall be filed for record with the register of deeds of the county of its principal place of business, and thereupon it shall become a corporation. A majority of the incorporators that reside in this state shall be residents of the county of its principal place of business, and its duration without renewal shall not exceed twenty years. (G. S. 1894 § 2903, amended '05 c. 313 § 1)

See preceding section.

**6482. Officers—Management**—Every such association shall have a president, a treasurer, and not less than three directors, who shall together constitute a board of managers and conduct its business. Such officers shall be chosen annually by the stockholders, and hold their offices until others have been chosen and qualified. The association shall make its own by-laws, not inconsistent with law, and may therein provide for any other officers deemed necessary, and the mode of their selection. It may amend its certificate of incorporation at any general stockholders' meeting, or at any special meeting called for that purpose, upon ten days' notice to the stockholders. (3074)

**6483. Capital—Limit of interest—Shares**—The amount of capital stock shall be fixed by the certificate of incorporation, which amount and the number of shares may be increased or diminished at a stockholders' meeting specially called for that purpose; but the whole amount of stock shall never exceed one hundred thousand dollars, and, in case of a creamery association, shall not exceed twenty-five thousand dollars. Within thirty days after the adoption of an amendment increasing or diminishing its capital, it shall cause the vote so adopting it to be recorded in the office of the register of deeds where its original certificate is on record. No share shall be issued for less than its par value, and no member shall own shares of greater par value than one thousand dollars, or be entitled to more than one vote. It may commence business whenever twenty per cent. of the stock has been subscribed

for and paid in, but no certificate of shares shall be issued to any person until the full amount thereof has been paid in cash, and no person shall become a shareholder therein except by consent of the managers. (3075)

The provision in 1870 c. 29 that no person shall be allowed to become a shareholder except by the consent of the managers held valid (115-451, 133+69).

**6484. Liability of officers—Dissolution—**If such board of managers, or the directors or officers having control of such association, for five consecutive years after its organization shall fail to declare a dividend upon its capital or shares, five or more stockholders, by petition setting forth such facts, may apply to the district court of the county of its principal place of business, for its dissolution. If, upon hearing, the allegations of the petition are found to be true, the court may adjudge a dissolution of the association. (3076)

**6485. Distribution of profits—**The profits on the earnings of such association shall be distributed to those entitled thereto by its by-laws, and in the proportions and at the times therein prescribed, which shall be as often as once in twelve months. (3077)

**6486. Annual report to dairy and food commissioner—**Every creamery association, on or before December 30 in each year, shall make a report to the state dairy and food commissioner, or such officer as may at any time, by law, be given the supervision of dairy products. Such report shall contain the name of the corporation, its principal place of business, the location of its creamery, and the number of pounds of butter or other dairy product manufactured by it during the preceding year. (3078)

**6487. 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. ('07 c. 293 § 1, amended '09 c. 456 § 1)

**6488. 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)

**6489. Same—Stock in other corporations—**Any corporation heretofore or hereafter organized under the provisions of section 3073, Revised Laws of 1905 [6479], or chapters 276 or 313, General Laws 1905, is hereby authorized, in addition to those other powers to it granted, upon an affirmative vote of a majority of its directors or other governing body, had at any regular meeting or any special meeting called for that purpose, to subscribe to the capital stock of any corporation organized under the provisions of this act, pay for the same, and thereafter, in like manner, vote the same and exercise all the usual powers of a stockholder in a corporation, subject to the limitations herein set forth. ('07 c. 293 § 3, amended '09 c. 280 § 1)

For 1905 cc. 276, 313, see §§ 6480, 6481.

**6490. Rural telephone companies—Place of business—Stockholders' meetings, where held—**All rural telephone companies or associations, organized or incorporated under any of the laws of this state shall have its principal place of business in the township, city or village designated in its articles of incorporation as such; provided that any officer of such company may transact the business pertaining to his particular office in any township, city or village into which such township, city or village, the lines of such company extend, or in any city or village within any such township; and provided further that any such rural telephone company whose lines extend into more than one township may hold its stockholders meeting in any township, city or village through or into which its lines extend or in any city, or village within any such township as its stockholders, or members may from time to time designate at a previous annual meeting or a special meeting called for that purpose, but until a different place is so designated the township, city or village named as its principal place of business shall be the place for holding all stockholders meetings thereof and when a place is so designated it shall be and remain the place for holding all stockholders meetings until again changed by a vote of the stockholders as aforesaid and it shall be the duty of the officer calling any such meeting to procure a place of meeting in the township, city or village so designated; and state the location of same in his notice of the meeting. ('11 c. 360 § 1)

## AGRICULTURAL SOCIETIES

### STATE AGRICULTURAL SOCIETY

**6491. Confirmation—Purposes—**The state agricultural society as it now exists is hereby confirmed and established as a public corporation. The conveyance to the state of the land in Ramsey county known and used as "the state fair grounds" is hereby confirmed, and the same shall be held by the state forever for the following public purposes, and no other: For exhibiting thereon annually, under the management and control of said society, the agricultural, stock-breeding, horticultural, mining, mechanical, industrial, and other products and resources of the state, including proper exhibits of the arts and sciences, and all other public exhibitions pertinent to expositions of human art, industry, or skill. Neither the state nor said society shall ever charge or incur said property. (3079)

Society a department of the state government and its managers public officials. Exempt from civil liability. Constitutionality of 1903 c. 126 (93-125, 100+732; 95-353, 104+534).

**6492. Membership—**Its membership shall be confined to citizens of this state and shall be composed as follows:

1. Three delegates to be chosen annually by one county agricultural society in each county in the state which shall maintain an active existence hold annual fairs and be entitled to share in the state appropriation under the

provisions of § 6516. If any such county society fails to choose delegates, then the president, secretary and treasurer thereof shall, by virtue of their offices, be the delegates from such society. Where there is more than one county agricultural society in any county of this state, only one, and that the senior, society shall be entitled to choose such delegates. Such seniority shall be determined by the state auditor, and in all cases where more than one such society in any county in the state shall claim such seniority, no delegates from any of such societies shall be recognized unless their credentials be accompanied by a certificate of such seniority, duly issued and signed by the state auditor; provided, when two or more counties of the state not having county agricultural societies maintain district agricultural societies they shall have the same privileges as county agricultural societies; such delegates shall be chosen from the county or district in which the society is located. Provided further, that societies or associations heretofore decided by the state auditor to be of equal age shall continue to share equally in the sums appropriated pursuant to this act so long as they otherwise comply with all the legal requirements, and delegates from such societies or associations shall each be entitled to one-half vote at the regular or special meetings.

2. One delegate from such county in the state in which no county or district agricultural society exists to be appointed by the county board of such county.

3. Individuals, who by reason of eminent services in agriculture, horticulture or in the arts and sciences connected therewith, or of long and faithful service in the society or of benefits conferred upon it, may by two-thirds vote at any annual meeting be elected as honorary members. The number of such honorary members shall not at any time exceed its present membership; provided, that not more than one honorary member shall be elected annually. Each honorary member shall be entitled to one vote.

4. Two delegates elected by, and the president, ex officio, of the following societies and associations: the state horticultural society; the state dairy-men's association; the state beekeepers' association; the Minnesota live stock breeders' association; the Minnesota field crop breeders' association; the Minnesota swine breeders' association; the Minnesota sheep breeders' association; the Minnesota horse breeders' association; the Minnesota veterinary association; the Minnesota cattle breeders' association; the state poultry association; Minnesota implement dealers' association; the Minnesota florists' association; the Minnesota garden flowers' association; the Minnesota county exhibitors' association; the Minnesota federation of county fairs; the state forestry association and the Minnesota state grange association. The following societies and associations shall be entitled to one vote each: Minneapolis market gardeners' association of Minnesota; the state growers' association; Minnesota shorthorn breeders' association; Minnesota Guernsey breeders' association; Minnesota Jersey breeders' association; Minnesota Holstein-Friesian breeders' association, and the Minnesota Hereford breeders' association; provided, that all such societies and associations shall be active and state-wide in their scope and operation, hold annual meetings and be incorporated under the laws of the state of Minnesota, before being entitled to select such delegates. The societies and associations named in this subdivision shall file with the secretary of state, on or before December 20 of each year, a report showing that said society or association has held a regular annual meeting for such year, a summary of its financial transactions for the current year, and an affidavit of the president and secretary that it has a paid up membership of at least twenty-five. On or before January 5 of each year, the secretary of state shall certify to the secretary of the state agricultural society the names of such societies or associations herein named as have complied with the provisions hereof.

5. The members of the governing board of the state agricultural society shall, by virtue of their offices as such, be members of said society and be entitled to one vote each.

6. On all questions arising for determination by the state agricultural society, including the election of members of the governing board, each delegate present shall be entitled to one vote, and no proxies shall be recognized

by said society, except when less than three delegates of any county or district agricultural society shall attend the annual meeting, those present may cast the full vote of said society. All delegates shall be accredited in writing and their credentials shall be signed by the president and secretary of the society or association represented. (R. L. § 3080, amended '05 c. 307; '11 c. 381 § 1; '13 c. 194)

1905 c. 307 in terms amended 1903 c. 126 § 3, which was repealed by § 9456, its provisions being incorporated in R. L. § 3080.

See note under § 6518.  
139+498.

**6493. Governing board—Annual meeting—**The management and control of its affairs shall be vested in its president, two vice-presidents, and six other managers, to be known as its governing board, all of whom shall be citizens of this state, and any five thereof shall constitute a quorum. The annual meeting of such society shall be held at such place in St. Paul or Minneapolis or upon the state fair grounds as the governing board may select beginning on the second Tuesday in January. It shall continue until the following Friday on which day a president shall be elected for the term of one year, one vice-president for a term of two years, and two managers for terms of three years each; provided, that at the annual meeting held in January, 1912, one vice-president shall be elected for one year and one for two years. The present members of governing board and the secretary and treasurer shall serve until the expiration of the terms for which they have been elected. Vacancies shall be filled by the governing board. Any person appointed to fill a vacancy shall hold office until the next annual meeting of the society which shall elect a successor to serve out the unexpired term. (R. L. § 3081, amended '11 c. 381 § 2)

**6494. Compensation of officers—Secretary—Treasurer—Expenses—**The annual compensation of the president of the governing board shall be one thousand dollars and that of the other members six hundred dollars each, which compensation shall be in full for all their services. On the third Tuesday of January of each year the board shall elect a secretary who shall hold office for one year and until his successor is elected and qualified. The compensation of the secretary shall be fixed by the board. The board may also appoint a treasurer for the term of one year and fix his compensation which shall not exceed five hundred dollars per year. The board may designate the secretary as the treasurer of the society. In addition the board may allow the actual traveling expenses of its members and of the secretary and treasurer or other employees while in the performance of their official duties, the claims for which shall in all cases be itemized in full and verified before allowance. But no expenditure for traveling expenses to other states shall be made by the governing board or by any officer, employee or agent thereof unless authority be first granted by a resolution of the governing board, or by its executive committee, stating the reasons and purposes of such trip. All claims amounting to more than one dollar shall be accompanied by a sub-voucher for each item. (R. L. § 3082, amended '11 c. 381 § 3)

**6495. Duties of secretary—Report—Duties of public examiner—**The secretary shall keep a complete record of the proceedings of the annual meetings of the state agricultural society and all meetings of the governing board, and of any committee of such board, keep all accounts of the society and perform such other duties as the governing board may direct. On or before December 15th, of each year, the secretary shall make a report to the governor for the fiscal year ending November 30, of each year, showing all the proceedings of the society during the current year, and its financial condition as appears from the books of the society. Such report shall contain a full detailed statement of all receipts and expenditures during such year. The books and accounts of said society for said fiscal year shall be examined and audited annually by the public examiner of the state and a full detailed report thereof made to the governor on or before the first Tuesday in January of the following year. A summary of such examination, duly certified by said public examiner, together with his recommendations, and the proceedings of the an-

nual meeting of the society first held following the secretary's report, including such addresses made at said meeting as the governing board shall direct, shall be appended to said secretary's report and printed in like manner as the reports of state officers. Four thousand copies of said report shall be printed annually and distributed as follows: Three copies to each society or association entitled to membership in said society; one copy to each newspaper in the state and the remaining copies in such manner as the governing board shall direct. The unpaid claims for examination heretofore made by the board of audit shall be paid from the funds of the society upon allowance by the governing board. (R. L. § 3083, amended '11 c. 381 § 4)

**6496. Monthly statements by secretary—Purchases and expenditures, etc.**—The secretary of the state agricultural society shall prepare monthly statements, except as provided by section eight, showing all the purchases and expenditures for the preceding month, except from the contingent fund, which shall be signed by him and approved by the president of the governing board. The secretary shall attach to such statement his affidavit that all articles were purchased by him, or under his direction, and to his best information and belief all articles purchased by the governing board were purchased at a fair cash market value and received by the society and that all services charged for were actually rendered; that neither he nor any person in his behalf, or the governing board to his best information and belief, had any pecuniary or other interest in any purchase made or services rendered, or received any pecuniary or other benefit therefrom, directly or indirectly, by commission, percentage, deduction or otherwise; and that the articles specified conformed in every respect to the goods ordered, in both quality and quantity. Such report shall also show the amount of money in the hands of the treasurer of the society and from what sources received; provided, that all claims against the society shall be made out in duplicate and duly verified, upon forms to be prescribed by the governing board. ('11 c. 381 § 8)

**6497. Statement, how filed—Monthly pay roll—Payments, how made—**The monthly statement so made, approved and verified, together with one copy of each of the duplicate claims provided for by section six, and a statement of every other expense, together with the monthly pay roll, shall be filed with the state auditor not later than the tenth of the succeeding month. Two certified copies of such statement shall also be made, one copy to be filed with the secretary and the other with the treasurer of the society. The monthly pay roll of the society shall show the name of every officer, and employee, when first employed, his monthly pay, time actually served, and amount to be paid. If the society has sufficient funds, said state auditor shall issue his warrant upon the state treasurer in favor of the treasurer of the society for the gross amount shown by said statement and pay roll, and the latter shall pay to the several persons the amount of their respective claims as shown by said statement and pay roll. On receipt of the statement, the state auditor shall deliver to the state treasurer a draft upon the treasurer of the state agricultural society for the moneys on hand as shown by such statement. Upon payment of such draft, the amount shall be credited to the account of the state agricultural society to which shall also be credited all interest accruing thereon. ('11 c. 381 § 9)

**6498. Contingent fund—State fair period—Transfer of funds—Statements and report—**The governing board may create a contingent fund from which expenditures may be made for emergency claims requiring immediate payment and for the payment of freight, express and drayage, and for the purchase of commodities requiring a cash payment. Disbursements may be made from said contingent fund in such manner as the governing board shall direct. Such contingent fund shall not exceed one thousand dollars. To secure said contingent fund the governing board may, when necessary, make requisition upon the state auditor for a warrant upon the funds in the state treasury to the credit of the state agricultural society. Such warrant shall be issued in favor of the secretary or treasurer of the society, as its board shall direct, during August and September of each year, which is hereby designated as the "state fair period," all receipts may be temporarily retain-

ed by the treasurer of the society in a general fund and payment may be made from said general fund during such period for the necessary expenses of conducting the annual fairs, including temporary employees, the payment of prizes, purses and premiums and such other emergency expenses as the governing board may direct. Any funds in the state treasury to the credit of the society at the beginning of the state fair period may be transferred to the treasury of the society for the purposes named in this section. Such transfer shall be made in the same manner as herein provided for securing the contingent fund, but no portion of such transferred funds shall be used in the payment of any contract entered into by the governing board for the erection or repair of buildings, it being the intent of this act that such expenses shall be paid in the manner provided by sections six [6516] and seven [6518]. A statement of every expenditure made during each month under the provisions of this section shall be submitted to the governing board under rules established by it and when approved by the board, a copy thereof, certified by the secretary and attested by the president, shall be filed with the state auditor at the time of filing the statement provided for by section 7 [6518]; provided, that the statements, for expenditures from the contingent and general funds during the state fair period shall be included in one report and filed with the state auditor not later than October 15th. ('11 c. 381 § 10)

**6499. New buildings**—New buildings, the estimated cost of which shall be fifteen thousand dollars or more, shall be erected under the direction and supervision of the state board of control, but the governing board shall procure and adopt all plans and specifications for such buildings, which plans and specifications shall be used by the board of control in inviting bids and in the letting of contracts; provided, that no contract shall be entered into by said board of control for the construction of any building until such contract and bids received shall have first been submitted to the governing board of the state agricultural society and their approval of the same obtained in writing. ('11 c. 381 § 11)

**6500. Salaries, when payable—Acts repealed**—All salaries provided under the provisions of this act, shall take effect and be in force from and after the third Tuesday in January, 1912. This act shall not be construed as repealing any appropriation contained in section 3098, Revised Laws, 1905 [6516], or any other appropriations made to aid county agricultural societies, which shall remain in force and be expended under the provisions of this act. Section 3101, Revised Laws 1905, and all other acts and parts of acts inconsistent with this act, are hereby repealed. ('11 c. 381 § 12)

**6501. Annual appropriations**—All moneys paid into the state treasury under the provisions of this act, are hereby annually appropriated for the uses and purposes of the state agricultural society. ('11 c. 381 § 13)

See §§ 48, 49.

**6502. Property vested in state—Moneys, how expended**—The title to all money and other property of such society shall vest in the state, and there shall be no division of its assets among its members. All moneys received by said society shall be used in the holding of its annual fair and for the improvement of the fair grounds, the payment of expenses, premiums, and purses, and furnishing such attractions and amusements as the governing board shall deem necessary for the success of its fairs. (3084)

**6503. Management of property—General offices**—The custody, management, and control of said fair grounds and all structures thereon shall be vested in said society as a department of the state, and its general offices, containing its property and records, shall be maintained upon said fair grounds. (3085)

**6504. Exhibitions—Standing appropriation**—Said society shall hold upon said fair grounds an annual fair, and may invite the co-operation of any other states or countries therein. It shall provide for and pay premiums, and all moneys expended for premiums, exhibits, or other displays shall be for the purpose of encouraging agriculture, horticulture, stock breeding, manufactures, and the mining, mechanical, and industrial arts and sciences. The sum of four thousand dollars is annually appropriated out of the revenue fund,

to aid said society in the payment of such premiums, the same to be paid out by the state treasurer upon the order of the president and treasurer of the society countersigned by its secretary. (3086)

See §§ 48, 49.

**6505. Rules and regulations**—Said society may make all by-laws, ordinances, and rules, not inconsistent with law, which it may deem necessary or proper for the government of said fair grounds and all fairs to be held thereon, and for the protection, health, safety, and comfort of the public thereon, and provide penalties for their violation; the same to be in effect from the time of filing with the secretary of the society. (3087)

**6506. To license privileges**—Said society may license and regulate all shows, exhibitions, performances, and privileges on said grounds, and may revoke any such licenses, and prohibit, remove, and summarily stop all exhibitions, performances, or privileges which it may deem offensive to good morals or which are contrary to law. (3088)

**6507. Unlicensed or improper exhibition**—Every person who shall engage in any play, game, concert, theatrical or other performance, or exhibit any show, caravan, circus, or curiosity, for which pay or any admission fee is required or received, without license therefor from the governing board, and any person who shall exhibit or perform therein any indecent, obscene, or immoral play or other representation, shall be guilty of a misdemeanor. If any show or exhibition licensed shall prove to be indecent, obscene, or immoral, the governing board shall forthwith close the same, and the license fee paid for such privilege, and any and all other moneys which may have been paid in connection therewith, shall be forfeited to the society. (3089)

**6508. May contract in its own name**—Said society may contract in its own name, and through its duly appointed officers and agents, and the provisions of this subdivision, and all ordinances, by-laws, rules and regulations adopted by its governing board, shall be deemed a part of every such contract entered into with any exhibitor, privilege holder, lessee, licensee, or other person. (3090)

**6509. Special peace officers**—At or before the time of holding any such fair, the president of said society may appoint, in writing signed by him, as many persons to act as special constables as he may judge necessary, for and during the time of holding the same and for a reasonable time prior and subsequent thereto. Such constables, before entering upon their duties, shall take and subscribe the usual oath of office, indorsed upon their appointment, and shall have and exercise upon the grounds of said society, and within one-half mile thereof, all the power and authority of constables at common law, and in addition thereto may, within such limits, without warrant arrest any person found violating any law of the state, or any rule, regulation, by-law, or ordinance of said society, and may summarily remove the persons and property of such offenders from the grounds, and take them before any court of competent jurisdiction to be dealt with according to law. The president, vice-presidents, and members of the board of managers shall also have all the powers by this section conferred upon such constables. Every such peace officer shall wear some appropriate badge of office while acting as such. (3091)

**6510. Sale of liquors**—No person shall sell, barter, give away or otherwise dispose of or introduce, have or keep for barter, gift or sale any spirituous, malt or fermented liquor or intoxicating liquors of any kind upon or within one-half mile of the state fair grounds or aid and abet in so doing and the presence and possession of any kind of such liquors in any quantity upon the person or upon the premises leased or occupied by any person within said limits, is declared a public nuisance, and shall be prima facie evidence of the purpose of such person to barter, give away or sell the same. Any person who shall violate any provision of this section shall be guilty of a misdemeanor. (3092)

**6511. Lockup—Seizure of liquors**—Said society is authorized to provide and maintain a watchhouse or lockup on said grounds for the confinement of offenders and the temporary detention of suspected persons. The governing

board, by itself or its special constables, shall without warrant seize and destroy any spirituous, malt, fermented, or intoxicating liquors of any kind found upon said grounds. (3093)

**6512. Holding justice court on fair grounds**—The governing board of said society may designate a justice of the peace of Ramsey county, who shall hold his court within the limits of said fair grounds while any fair is being held, and for one week prior and subsequent thereto, and there try and determine in a summary manner all cases within his jurisdiction, and not be required to grant any change of venue. While acting as such court he shall receive such compensation, not exceeding five dollars per day, as may be fixed by said governing board. All fines, penalties, and costs collected for any offence committed on said grounds shall forthwith be paid to the treasurer of said society, and his receipt therefor filed by the court with the county auditor. Said governing board may appoint and provide for the compensation of a person to prosecute actions before said court, or to act as its legal adviser. (3094)

**6513. Larceny of ticket**—Any person who shall steal or unlawfully obtain any ticket, paper, or other writing entitling, or purporting to entitle, the holder to admission to the state fair grounds, or any part thereof, or who shall sell or dispose of any such ticket which upon its face appears to have been issued to another and not transferable, without informing the purchaser of its character, shall be guilty of a misdemeanor. (3095)

**6514. Misdemeanors**—In addition to other misdemeanors specified in and made punishable by a statute, every person who shall trespass on, enter, or attempt to enter said fair grounds, by jumping, climbing, or passing through any inclosure, or in any manner except through the gates provided therefor, or who shall enter such gates or other reserved inclosure on said grounds without authority of the governing board or its authorized officers, or who shall obtain permission to enter said grounds by impersonating another, or by any misrepresentation or false pretence, or who shall be found lurking, lying in wait, or concealed in any building, yard or premises, upon said fair grounds, or loitering about the immediate vicinity thereof with intent to steal or commit other offences or mischief, shall be guilty of a misdemeanor. (3096)

#### COUNTY AGRICULTURAL SOCIETIES

**6515. Formation—General powers**—An agricultural society may be incorporated by citizens of any county or two or more counties jointly, but only one such county shall be organized in any county; such society may sue and be sued in its corporate name; may adopt by-laws, rules and regulations, alter and amend the same; may purchase and hold, lease and control any real or personal property deemed to promote the objects of the society, sell and convey the same.

Such society shall have jurisdiction and control of the grounds upon which its fairs are held, and of the streets and grounds adjacent thereto during such fair, so far as may be necessary for such purpose.

Any person who shall wilfully violate any lawful rule or regulation made by such societies during the days of a fair shall be guilty of a misdemeanor. (R. L. § 3097, amended '09 c. 416; '11 c. 381 § 5)

Cited (139+498).

**6516. Aid to societies and associations**—All sums hereafter appropriated to aid county and district agricultural societies and associations shall be distributed equally to the senior active county agricultural societies and associations holding annual fairs, and to the Minnesota state poultry association, the Minnesota state butter and cheese makers' association, the Minnesota fanciers' association, Northern Minnesota poultry association, the Duluth poultry association, the Northwestern Minnesota fair association, the Southeastern Minnesota poultry association, the Mankato fair and Blue Earth county agricultural association, the Morrison county co-operative agricultural society, the Douglas county poultry association, the Kandiyohi county poultry association, the Lake county poultry association, the Winona county poultry association, the Mower county poultry association, and the Renville county

poultry association, the Faribault agricultural and fair association, if not receiving specific state appropriations, pro rata to be paid out in premiums at the fairs of only such societies and associations as have an annual membership of twenty-five or more, maintain an active existence, hold annual fairs, and which have paid out in premiums to exhibitors during the year as much as they receive from the state. No county or district agricultural society shall receive in any year from the state for the purpose of reimbursing it for the amount of premiums paid at its fairs the sum in excess of fifteen hundred dollars (\$1,500.00) nor shall any association or organization existing for the purpose of exhibiting poultry or in the aid or stimulation of the poultry industry or any branch thereof be given more than four hundred dollars. All payments hereunder shall be made only upon the filing with the state auditor on or before December 15th of each year a sworn statement showing the holding of annual fairs and the payment in premiums of the amounts claimed from the state, or that such societies or associations have advertised annual fairs, and have been prevented for good cause from holding the same, and have incurred expense in such advertising and preparation for the sum equal to the amount claimed from the state. District agricultural societies embracing two or more counties, not having county agricultural societies, shall be entitled to share in such pro rata distribution and shall be subject to the same conditions as county agricultural societies. Any county or district agricultural society holding its first annual fair shall be entitled to share, pro rata, in such distribution if it shall have expended at least four hundred dollars in premiums during the past year. The state auditor shall certify to the secretary of the state agricultural society on or before January 5th of each year a list of all county and district agricultural societies that have complied with this section and which are entitled to share in such appropriation. All payments hereunder shall be made on or before December 20th of the year in which the fair is held. Provided, however, that in determining the amount to be paid to any organization under this section, the state auditor shall exclude all payments made by such organization as premiums or purses for or in horse races, ball games, and amusement features of any nature. (R. L. § 3098, amended '11 c. 381 § 6; '13 c. 425 § 1)

See § 6500.  
139+498.

**6517. County lands may be leased, when**—Any county board of any county may lease to agricultural societies established and existing in its county, for such period and on such terms as it shall deem expedient, any lands of the county, to be used by such society for fair purposes. Said society may construct on such leased land suitable buildings, race tracks, and other improvements. (3099)

**6518. Annual meetings—Reports**—Every such society shall hold an annual meeting for the election of officers and the transaction of other business on or before the first Tuesday in December of each year, at which time its secretary shall make a report of its proceedings for the preceding year; such report shall contain a statement of all transactions at its fairs, the number of entries, the amount and source of all moneys received, and the amount paid out for premiums and other purposes, and show in detail its entire receipts and expenditures during the year.

The treasurer shall also make a comprehensive report of the funds received, paid out and on hand, and upon whose order paid. Every such society shall cause a certified copy of the report of the secretary to be filed with the register of deeds of the county, and the state auditor, on or before the fifteenth day of December in each and every year. (R. L. § 3100, amended '11 c. 381 § 7)

R. L. § 3101, providing that the president of every such society and two members to be elected annually shall be members of the state agricultural society is repealed by § 6500.

**6519. Appropriations by certain municipalities**—The common councils of villages and cities and the boards of supervisors of townships having fairs of county and district agricultural societies or associations, who are members of the Minnesota state agricultural society, held within their corporate

limits or in close proximity thereto, are hereby authorized and empowered to appropriate for and pay to such agricultural society or association annually a sum not exceeding \$1,000.00. ('13 c. 546 § 1)

**6520. Public examiner to examine books, etc.**—All books and affairs of all county agricultural societies or any like societies, receiving aid from the appropriation for aid of county agricultural societies shall hereafter be subject to examination by the public examiner for the current year. ('13 c. 452 § 1)

**6521. Certain payments to street fairs legalized**—All payments of money heretofore made by or on behalf of this state to such street fairs as may have been recognized and treated by the state auditor as members of the state agricultural society are hereby ratified, legalized and approved. ('13 c. 28 § 1)

## SOCIAL AND CHARITABLE CORPORATIONS

### GENERAL PROVISIONS

**6522. For what purposes formed**—Any three or more persons may form a corporation for any one or more of the following purposes, viz.: religious, social, moral, educational, scientific, medical, surgical, benevolent, fraternal or reformatory purposes, or for establishing, maintaining and operating clinical, pathological, medical or surgical research laboratories, or for providing, erecting, owning, leasing, furnishing and managing any building, hall or apartments, for the use in whole or in part of any society, societies, body or bodies, incorporated or unincorporated, organized for any one or more of said purposes, or for the purpose of improving, or beautifying any public roads, streets, grounds, parks, water or 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, amended '09 c. 483; '13 c. 285 § 1)

Previously amended by 1907 c. 94.

Does not authorize incorporation of association for profit or designed to bestow benefits for a consideration (23-92; 35-458, 29+155; 37-13, 32+787; 85-498, 89+872). Unauthorized incorporation held to create corporation de facto (35-458, 29+155). Cited (42-204, 44+57; 72-498, 75+692; 88-524, 93+672, 60 L. R. A. 870; 88-535, 93+669; 93-72, 100+666).

**6523. Certificate—Contents—Record**—They shall adopt and sign a certificate containing:

1. Its name, its general purpose and plan of operation, and its location.
2. The terms of admission to membership, and the amount of monthly, quarterly, or yearly contributions required of its members.
3. If there be capital stock, the number of shares, and the amount of each share.
4. The officers of the corporation or society, with time and place of electing or appointing the same, the number of trustees, directors, or managers, if any, who are to conduct the transactions of the society during the first year: Provided, that societies for the promotion of temperance or social or moral reform may hold their annual meetings for the election of officers and the transaction of other business at such time and place in the state as a majority of the members thereof may by vote determine; and any such existing society may hold its annual meetings at any time or place so determined.

Said certificate shall be acknowledged and recorded with the secretary of state and with the register of deeds in the county where the corporation is located. Any such corporation may amend its certificate as provided in the case of other corporations, but the amendment need not be published. (3103)

Amendment (72-498, 75+692).

**6524. Powers—Collection of assessments**—Upon filing for record its certificate of incorporation, it shall have the ordinary powers of corporations, and may establish by-laws and regulations for the management of its affairs, in accordance with law and consistent with an honest purpose. It may in its corporate name, and for the use and benefit of the corporation, sue and recover judgment, for an amount not exceeding twenty dollars upon any one share in any one year of subscribed stock in said corporation, after ten days' notice to each stockholder of an assessment upon the shares. (3104)

**6525. Election by another corporation**—Any benevolent, charitable, missionary, hospital, or religious corporation, whenever its certificate shall so provide, may authorize the election of a specified number of its directors, trustees, or managers by another corporation. (3105)

**6526. No dividend until dissolution**—No distribution of property among members or shareholders of any such corporation shall be made until the dissolution of the corporation, except dividends upon its capital stock, if any, out of the net annual receipts after payment of all outstanding indebtedness. (3106)

85-498, 507, 89+872.

**6527. Power as to property**—Every such corporation, in addition to its other powers, may acquire by purchase, gift, grant, or devise, and hold, use, and convey, any real or personal property whatever, and may lease, mortgage, or use the same in any manner deemed most conducive to its interests and prosperity; but it shall not divert any gift, grant, or bequest from the specific purpose designated by the donor without his consent; but no street, road, or alley shall be established, opened, or extended through or upon lands not exceeding ten acres in area upon which a hospital building, incorporated as such, is situated, except with the consent of the managing board of such hospital. (3107)

Diversion of gift (85-302, 88+977).

**6528. 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)

Section 2 repeals inconsistent acts, etc.

**6529. Colleges and seminaries—Diplomas**—The trustees of any incorporated college or seminary, in addition to their other powers, may prescribe its course of study and discipline, grant such literary honors and degrees as are usually granted by similar institutions, and give suitable diplomas in evidence thereof. They may make all rules, ordinances, and by-laws necessary and proper to carry into effect its powers. Every such college shall be subject to visitation and examination by the superintendent of public instruction. They may require the treasurer and other officers and agents to give bonds. They shall annually, on or before January 1, report to the superintendent of public instruction the name of each trustee, officer, and student, the amount of stock subscribed, donated, and bequeathed, and the amount actually paid in. (3108)

85-498, 511, 89+872.

**6530. Existing institutions**—Any existing institution of learning, whether incorporated or not, on complying with the foregoing requirements, may by a majority vote become a corporation, with all its powers and privileges, and assume a corporate name. It may by a like vote transfer to such corporation, when so formed, all its property, real, personal, or mixed. Such corporation in its corporate name may sue for and collect all debts, demands, subscriptions, devises, and bequests to said institutions. But said corporation so taking such property of the original corporation or company shall take the same subject to all liens, trusts, and limitations to which it was subject before transfer, and shall be liable to pay all debts of such previous corporation to the extent of the value of the property so taken. (3109)

**6531. County farm bureaus**—Corporations to be known as county farm bureaus may be organized to develop and foster the agricultural, social and commercial interests of the citizens of the county in which they are organized by the creation and development of cordial and friendly relations between the residents of the urban and rural districts thereof, by encouraging and

aiding the organization of social and business clubs within the various villages, towns and school districts of the county, by co-operating with the department of agriculture of the United States and the colleges of agriculture of the state of Minnesota in carrying out the plans and purposes of said department and said colleges in improving the social and business interests of persons engaged in agriculture and by such other means and methods as may be deemed advisable. ('13 c. 519 § 1)

**6532. Same—How incorporated—**Such corporations shall be incorporated in the manner and under the provisions of law applicable to the corporation specified and authorized to be organized under the provisions of section 3102, of the Revised Laws of 1905 [6522] and acts amendatory thereof and supplementary thereto. ('13 c. 519 § 2)

**6533. Same—Fees—**No fee other than the usual recording fee, payable to the secretary of state, shall be required to be paid to any officer of the state of Minnesota for filing of such articles of incorporation with the secretary of state. ('13 c. 519 § 3)

#### CORPORATIONS TO ADMINISTER CHARITIES

**6534. Formation—Requisites—**A corporation may be formed under the provisions of this subdivision for the purpose of administering and furnishing relief and charity for the worthy poor who may reside in a designated locality, and shall comply with the provisions of this section and § 6535, under the name specified in its certificate of incorporation. Such certificate shall declare:

1. Its name and principal place of business.
2. That it is organized to administer and furnish relief and charity for the worthy poor who may reside in a designated locality, and without discrimination as to age, sex, color, or religious inclination of the beneficiaries.
3. The names and places of residence of the incorporators, and how and when their successors may be appointed or elected.
4. The names of the first board of directors or managing officers, and in what officers or persons the government of the corporation and the management of its affairs shall be vested, and how and when they shall be elected or appointed, and any other provisions not inconsistent with law which may be desired. (3110)

**6535. 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 § 6534, or for the general purposes and objects therein specified, shall have power to consolidate and reorganize as a single corporation. A certificate stating the terms of consolidation shall be approved by each corporation by a majority vote of its board of managers or directors; and before such consolidation shall be effective, a copy of said certificate and of the record of such approval or consent, duly certified by the president and secretary of each corporation involved, and under its corporate seal, shall be filed for record in the office of the secretary of state. Upon the filing for record of said certificate, such

corporations shall become merged in the new corporation, which shall thereafter be known by the name agreed upon, and said new corporation shall thereupon succeed to all of the rights, powers, franchises, contracts, privileges and immunities, and be subject to the same duties, liabilities and obligations in all respects as were granted to or imposed upon the original corporations. The name agreed upon for the new corporation may be the same as that of any one of the corporations entering upon said consolidation. (R. L. § 3111, amended '09 c. 222 §. 1)

93-210, 227, 100+1104.

#### CHAMBERS OF COMMERCE, ETC.

**6536. Formation—Purposes**—A corporation may be formed in any county, city, village, or town for the purpose of advancing the commercial, mercantile, manufacturing, or agricultural interests of such municipality; for inculcating just and equitable principles of trade; for establishing, maintaining, and enforcing uniformity in its commercial usages; for acquiring, possessing, and disseminating useful business information; for adjusting the controversies and misunderstandings which may arise between individuals engaged in trade and business; and for promoting the general prosperity of such municipality. (3112)

107-506, 121+395, 23 L. R. A. (N. S.) 1260.

**6537. Chambers of commerce and boards of trade**—In addition to its ordinary powers, every chamber of commerce or board of trade whose certificate shall state the purpose of its incorporation to be to acquire and disseminate useful business information; to inculcate equitable principles of trade; to establish, maintain, and enforce uniformity in the commercial usages, business transactions, and trade relations of the municipality in which it is located, or of citizens thereof—shall also have power, by and through its committees, boards, and agents, in such manner, not inconsistent with law, as its by-laws or regulations may provide, to arbitrate, adjust, and determine differences between itself and its members, or between any such members, or between any such members and other persons assenting in writing thereto, including the taking of testimony and the rendition of awards as the basis of judicial proceedings, and the enforcement of any such awards, regulations, or by-laws, either by fine or by forfeiture of personal or proprietary rights of members. (3113)

By-law requiring arbitration constitutional (86-448, 91+8).

#### CAMP MEETING ASSOCIATIONS

**6538. Formation—Capital stock**—Camp or grove meetings, Sunday school assemblies, or any societies for religious instruction or worship, and for mutual improvement in moral, literary, or social culture, may be incorporated under this chapter. The amount of capital stock shall not be less than five thousand dollars, divided into shares of not less than ten dollars nor more than fifty dollars, and paid in as provided in its by-laws. (3114)

**6539. Exempt from taxation—Laying streets through**—All property necessarily used by any such corporation, and not leased or used for profit, shall be exempt from taxation. No roads or streets shall be laid through any such property without the consent of the governing board of such corporation. (3115)

See § 1970 and note.

**6540. Peace officers may be appointed**—The governing board of any such corporation may appoint peace officers for the purpose of keeping order on its grounds, to be paid by such corporation. Such officers while on duty shall have the same power and authority as constables. (3116)

#### SOCIETIES FOR SECURING HOMES FOR CHILDREN

**6541. Formation**—Twenty or more citizens of this state may form a corporation for the purpose of securing homes in private families, by adoption or otherwise, for orphans, or homeless, abandoned, neglected, or grossly ill-treated children. Such incorporators shall file with the secretary of state their certificate of incorporation, accompanied by a certificate of the governor

and three or more justices of the supreme court, that said corporation is trustworthy and entitled to confidence. A like certificate of three or more justices of the supreme court shall be filed every ten years thereafter. Such corporation shall have a main office, adopt and publish rules for the transaction of its business, and its financial records shall be open to public inspection. (3117)

**6542. Powers of such societies**—Every such society may receive and become the legal guardian of any resident child under ten years of age, who is grossly illtreated, or who has been abandoned, or is without a home, or surrounded by bad or immoral influences, or whose living parents shall in writing assign to it the custody thereof, and through its agent may consent to the adoption of a child in all cases where a parent or guardian might so consent. It may contract in writing with any person who, after ninety days' trial, shall take, without adopting, any such child, for its proper care until sixteen years of age if a girl, and eighteen if a boy. Such contract shall also specify the amount to be paid to such child at the expiration thereof, but shall contain no provision for its political or sectarian training or education. (3118)

**6543. Compensation**—Said society shall in no case charge or receive from any person adopting a child any compensation except the expense of taking it to the home provided, and the person taking the child shall receive no compensation for the care, clothing, or medical attendance thereof in case it is returned to the society. (3119)

**6544. Supervision of children in homes**—Said society shall keep careful supervision over all children placed by it, and, except in case of legal adoption, require from persons taking them a full report of their condition and welfare at least once a year. Its agents shall have the right to visit such children, and personally investigate their condition, as often as may be deemed desirable. If such society becomes satisfied, upon due investigation, that the influence of any home is harmful, or the treatment of the child is unduly severe or inconsiderate, its superintendent may require his return to its main office, at the expense of the family having it. (3120)

**6545. Report to state board of control**—The secretary of every such society shall, from time to time, report to the state board of control such facts in reference to the children in its custody as such board may require, on blanks prescribed by it. The board of control may at all times investigate the homes where such children are placed, and if any child is found to have been placed in an improper home it may order its transfer to a proper one, and if the change is not made within thirty days it may take charge of such child and make suitable provision for it. (3121)

**6546. Application to probate judge—His duties**—Whenever two members of the governing board of any city, county, town, or village shall make petition, in writing, to the probate judge of any county, that a child under the age of ten years, residing in such county, is, in their opinion, dependent upon the public for support; has been abandoned or neglected or is a vagrant; or whose life, health, or morals is imperiled by cruel treatment or by the habitual intemperance or other misconduct of its parents or guardian—such judge shall issue a citation fixing a time and place of hearing upon such complaint, which citation shall be served upon such parents or guardian not less than five days before the day of hearing, if they or either of them can be found in the state, of which the sheriff's return shall be sufficient proof, provided that if such parent or guardian shall join in the petition no notice shall be necessary. In either case said judge shall cause an investigation to be made as to the truth of the allegations of the petition and the condition of such child, and upon any such hearing he may compel the attendance of witnesses, and shall enter his findings on the records of the court. The county attorney shall attend all such hearings, and any other person may appear thereat in behalf of such child. In case of refusal by the parents or guardian to surrender a child to such society on order of such judge, he may direct the sheriff to take possession of the child and deliver it to such society or its agent. (3122)

**6547. Order of probate judge**—If the judge finds the allegations of the petition to be true, upon the written request of the superintendent of such society, he may direct that such child be turned over to its care and custody for the purpose of adoption, or to be placed by contract, and shall deliver to such society a copy of its order, which, in addition to other findings, shall state, as far as can be ascertained, the name and age of the child, and the name, nativity, residence, and occupation of the parents or either of them. Upon entering such order, the parents of such child shall be released from all parental duties and responsibilities in respect thereto, and thereafter shall have no right to its custody, services, or earnings, except by direction of such society or order of court. (3123)

**6548. Child, how restored to parents**—Whenever one or both of the parents of any ward of such society so committed to its care have become able to support and educate such child, by resolution of the governing body of the society and by order of said court it shall be returned to the parent making application therefor. But all orders of the probate judge relative to such child shall be appealable to the district court by the petitioners, parents, or guardians. (3124)

#### CORPORATIONS FOR MAINTAINING HOMES FOR DEPENDENT CHILDREN

**6549. Incorporation**—A corporation may be formed under the provisions of this act, by not less than three persons, for the purpose of establishing and maintaining homes for dependent children, for the receiving of such children into said homes, the care and supervision of said children and the conduct of said homes. Such certificate shall declare and state:

1. Its name and principal place of business.
2. That it is organized to establish and maintain a home for dependent children without discrimination as to age, sex, color or religious inclinations of the beneficiaries and for the custody and supervision of said dependent children in said home.
3. The names and places of residence of the incorporators, and how and when their successors may be appointed or elected.
4. The names of the first board of directors or managing officers and in what officers or persons the government of the corporation and management of its affairs shall be vested and how and when they shall be elected or appointed and any other provisions not inconsistent with law that may be desired. ('13 c. 314 § 1)

**6550. Powers, etc.**—The persons so executing said certificate and their successors shall thereupon become a corporation by the name specified therein, with all the powers of a common law corporation. It may sue and be sued by its corporate name, have perpetual succession, adopt a corporate seal, and change the same at pleasure. It may in its corporate name acquire and receive, by purchase, gift, grant, devise, and bequest, any property, real, personal, or mixed, and the same hold, sell, convey, assign, loan, lease, or otherwise use for the purposes named in its certificate of incorporation, and for such time and in such manner as may be directed by any grantor or testator who may make a gift, devise, or bequest to such corporation, to be administered and used as provided in this act; and it shall have no power to divert any gift, grant, or bequest from the specific uses and purposes designated by the donor or testator. Such corporation shall have no capital stock, and any court of equity, on its own motion or on application, may have and exercise visitorial powers over its officers and affairs. ('13 c. 314 § 2)

**6551. Rights, etc.**—Said corporation shall have supervision over all children received by it, as provided, in this act and shall have a right to be appointed by the proper court and to act as guardian for any of said children. Said corporation and all of its capital and shares of stock shall be exempt from taxation. Said corporation shall have the right now conferred upon the governing board of cities, counties, town and villages by section 3122, Revised Laws 1905 [6546], and may exercise the right as provided in section 3122 [6546], may have children committed to said home by the probate court and may receive the same as provided in said sections 3122, 3123, and 3124 Revised Laws 1905 [6546-6548]. ('13 c. 314 § 3)

## CORPORATIONS FOR MAINTAINING HOMES FOR AGED MEN AND WOMEN

**6552. Incorporation**—Any number of persons not less than five who shall associate themselves together by articles of agreement in writing according to the provisions of this act for the purpose of obtaining, establishing, building, maintaining, endowing and carrying on in the state of Minnesota, a home for aged men and women, and who shall comply with the provisions of this act, shall with their associates and successors constitute a body corporate under the name by them assumed in such agreement. ('11 c. 65 § 1)

**6553. Articles of incorporation**—Said articles shall declare:

First: The name of the corporation, and the principal place of transacting its business.

Second: That it is organized for the purpose of obtaining, establishing, building, maintaining, endowing and carrying on in the principal place where its business is to be transacted a home for aged men and women.

Third: The name, and the places of residence of the persons forming such association, and corporation, and how, and when their successors may be appointed or elected.

Fourth: The name of the first board of directors or managing officers of such corporation, and in what officers or persons the government of such corporation, and the management of its affairs shall be vested, and how and when such officers may be elected, or appointed, and it may contain such other provisions not inconsistent with this act as such incorporators may desire.

Said articles shall be recorded in the office of the register of deeds of the county where such corporation has its principal place of business, and also in the office of the secretary of state, and published once each week for two successive weeks in some newspaper printed and published in the county in which said principal place of business is located, and the affidavit of the printer of such newspaper showing such publication shall be filed with the secretary of state. ('11 c. 65 § 2)

**6554. Powers**—When such articles are so made, recorded and published, and said articles and affidavit are so filed, the persons so signing said articles, and their successors from time to time shall constitute and be a corporation by the name in such articles assumed or adopted, and it shall also have all the powers of corporations at common law, and it may sue, and be sued by its corporate name, have perpetual succession, make all needed rules, regulations and conditions for admission of inmates into such home, and for the carrying on and management of such homes and of its affairs, adopt a common seal which it may change at pleasure, and shall have power in its corporate name to acquire and receive by purchase, conveyance, gift, grant, devise and bequest any property, real, personal or mixed, the same to hold, sell, convey, assign, loan, lease or otherwise use for the purpose named in its articles, and for such time, and in such manner as may be directed by any grantor or testator who may make a gift, devise or bequest to such corporation, or for its use, to be administered and used for the purpose of obtaining, establishing, building, maintaining, endowing and carrying on such home, but such corporation shall have no power to divert any gift, grant or bequest from the specific uses and purposes designated by any donor or testator. Provided, that nothing herein contained shall have the effect of legalizing any gift, devise or bequest which would otherwise be invalid under the laws of this state, in any matter now pending in any court of this state or, which may be instituted within sixty days after the passage of this act. ('11 c. 65 § 3)

**6555. No capital stock—Visitorial powers**—No corporation organized under this act shall have any capital stock, and any court of equity in this state on its own motion, or on application so to do, may have and exercise visitorial powers over the officers and affairs of any corporation organized under this act. ('11 c. 65 § 4)

## SOCIETIES FOR PREVENTION OF CRUELTY

**6556. Purposes—Powers**—The "Minnesota society for the prevention of cruelty" is hereby confirmed and continued, with all existing powers, for the

purpose of inculcating humane principles, the enforcement of law, and the prevention of cruelty, especially to children and animals. It may appoint representatives in any county where no active county society exists, for the purpose of receiving and accounting for funds from any source, and may also appoint agents at large to prosecute the work of said society throughout the state. Said society and all county societies may appoint agents for the purpose of prosecuting persons guilty of cruelty to children or animals. Every such agent whose appointment has been approved and made a matter of record by the probate judge of the county from which he was appointed may arrest any person in his county found violating any law for the protection of children or animals, take him before any court or magistrate having jurisdiction, and make complaint against him. Branches of said society, consisting of not less than ten members, may be organized in any part of the state to prosecute the work of the society in their several localities under rules established by it. It may elect officers and make such rules and by-laws as are necessary. (3125)

**6557. 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)

**6558. 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)

**6559. 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)

**6560. 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)

**6561. 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)

**6562. 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)

**6563. County societies**—County societies for the prevention of cruelty to children and animals may be formed in any county by not less than seven incorporators, and the members, at a meeting called for that purpose, may elect not less than three of their number directors, who shall continue in office until their successors are qualified. (3126)

**6564. May acquire and hold property—Municipal appropriation**—Every such society may acquire by purchase, gift, grant or devise, and hold, use, or convey, real estate and personal property, and lease mortgage, sell, or use the same in any manner conducive to its interest, to the same extent as natural persons. The county board of any county, or the council of any city, or village, in which such societies exist, may in their discretion, appropriate for the maintenance and support of such societies in the transaction of the work for which they are organized, any sums of money not otherwise appropriated, not exceeding twenty-four hundred dollars (\$2400.00) in any one year, provided that no part of such appropriation shall be expended for the payment

of the salary of any officer of such society. (R. L. § 3127, amended '13 c. 31 § 1)

**6565. Duties of peace officers—Fees—**Any member of such association may require, and it shall be the duty of any sheriff or his deputy, any constable, police officer, or the agent of any such society, state or county, whose appointment has been approved by a judge of probate as provided in this subdivision, to arrest any person found violating the law relative to cruelty to persons or animals, and to take possession of any animals in their respective municipalities which have been cruelly treated, and deliver the same to the proper officers of the association. For such services such officers or agents shall be allowed and paid such fees as are allowed for like services in other cases, which fees shall constitute a part of the costs taxed on conviction. (3128)

#### FRATERNAL SOCIETIES

**6566. 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. Katolicka Slovenska Jednota v Spojenych Statoch Severnej Ameriky, and any subordinate lodge of any similar body now existing or hereafter organized, installed under the authority of the grand bodies of such orders respectively, or of any other supreme body authorized to institute such subordinate bodies, 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, amended '09 c. 42 § 1)

See §§ 6570-6579.

**6567. Certificate—Contents—Record—**Such commandery, chapter, lodge, encampment, post, division, section or board shall cause to be prepared, executed and acknowledged, by its presiding officer and recording officer, a certificate of incorporation which shall contain:

1. The charter name and number, if it has a number, of such commandery, chapter, lodge, encampment, post, division, section or board.
2. The time when and the authority by which the same was instituted.
3. The names of the charter members thereof and its location.
4. The names of the elective officers of such body for the current term.

Such certificate shall be recorded in the office of the register of deeds of the county in which such body is located, or if a grand body, in the office of the secretary of state, and thereupon such body shall become a corporation under its charter name with power in such name to sue and be sued, and to receive, acquire, hold, manage and dispose of property of every kind. (R. L. § 3130, amended '07 c. 369 § 1)

**6568. Corporate seal—**The seal of any such lodge, branch, commandery, or encampment shall be its corporate seal. (3131)

**6569. Surrender of charter—Disposition of property—**Whenever the charter of any such subordinate body shall be surrendered or taken away by the supreme body granting it, its corporate powers shall cease, except that it may sell and dispose of such of its property as is not designed for and used exclusively by said order, and collect debts, and all such property and debts shall be delivered up to said grand body, and be disposed of in accordance with its laws. (3132)

**6570. 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)

See § 6566.

**6571. 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 regular meeting thereof, and to that end by the same vote at the same meeting, adopt and cause to be prepared a certificate which shall contain:

First—In the case of such a grand lodge of the Degree of Honor, Ancient Order of United Workmen, the name under which it was instituted and chartered by the supreme lodge, Ancient Order of United Workmen, or by the superior lodge of the Degree of Honor, Ancient Order of United Workmen, as the case may be. In the case of any such subordinate lodge of the Degree of Honor, Ancient Order of United Workmen, the name and number under and authority by which it was instituted and chartered.

Second—The date of the institution and the date of the charter issued to such grand lodge of the Degree of Honor, Ancient Order of United Workmen, or such a subordinate lodge of the Degree of Honor, Ancient Order of United Workmen.

Third—The names of the first or charter officers of such incorporating body.

Fourth—If a subordinate lodge of the Degree of Honor, Ancient Order of United Workmen, the place where it is located.

Fifth—The names and places of residence of the officers of such incorporating body, who hold such offices at the time such certificate is filed, as 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)

**6572. 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)

**6573. 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)

6574. **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)

6575. **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)

6576. **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)

6577. **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)

6578. **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)

6579. **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)

**6580. 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)

**6581. 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)

**6582. 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)

**6583. Same—Corporate seal—**The seal of such aerie shall be its corporate seal. ('07 c. 364 § 4)

**6584. 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)

**6585. Same—Amendment of charter—**This charter may be amended as other incorporations, save that the amendment need not be published. ('07 c. 364 § 6)

**6586. 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)

**6587. 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)

**6588. 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).

**6589. 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)

**6590. 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)

**6591. 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

**6592. Election of trustees**—The stated worshippers with any church, congregation or religious society, not already incorporated, who are of lawful age and have been considered as belonging thereto, may elect trustees thereof and incorporate the same in the manner herein provided. A written notice signed by at least five of such stated worshippers, which notice shall state the time, place and object of the meeting, shall be posted at least fifteen days prior to the time therein fixed, in some conspicuous spot at the place of worship of some church, congregation or society. At the time and place so fixed, such worshippers, not less than five thereof being present, shall, by a plurality vote, elect a chairman and secretary, who shall together determine the qualification of voters and receive and count the votes. The voters, as so determined, shall, by a plurality vote, elect not less than three nor more than nine members of their church, congregation or society as trustees, to take charge of its property and temporal affairs; and said voters shall also adopt a name, by which said trustees and their successors in office shall forever thereafter be known; and they may also determine the qualifications of the trustees thereafter to be chosen and the religious denomination or sect to which the society shall belong. Immediately after such meeting, the chairman and secretary thereof shall sign, in the presence of two subscribing witnesses, and shall acknowledge a certificate which shall state the names of the trustees elected, the name adopted for the incorporated society, the qualifications of future trustees, if any shall have been determined by the electors, and the

name of the religious denomination to which the society shall belong, if any shall have been selected. (3133)

Change of name (37-241, 33+786). Held a corporation de facto (37-447, 35+260). Merely cited as to fact of incorporation (25-202; 69-141, 143, 71+1031, 38 L. R. A. 669, 65 Am. St. Rep. 559; 81-32, 34, 83+487; 83-269, 270, 86+330).

**6593. 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 [6598]. ('07 c. 60 § 1)

**6594. Certificate to be recorded—Powers of trustees**—Such certificate, together with the certificate of acknowledgment and a copy of the notice of meeting and affidavit of the posting thereof, shall be recorded with the register of deeds of the county where the place of worship of such society is located, and thereafter such trustees and their successors shall be a body corporate by the name expressed in such certificate. Such trustees may have a common seal and alter the same at pleasure. They may take possession of all temporalities of such church, congregation, or society, real and personal, given, granted, or devised, directly or indirectly, to such body or to any other person for their use. They may sue and be sued in their corporate name, recover and hold all debts, demands, rights, and privileges, all churches, buildings, burial places, and all the estate and appurtenances belonging to such church, congregation, or society, however acquired or by whomsoever held, as fully as though originally vested in them; and they may hold other real or personal estate to an amount which will produce a yearly income of not more than three thousand dollars, and may demise, lease, and improve the same. (3134)

31-173, 176, 17+282; 69-141, 144, 71+1031, 38 L. R. A. 669, 65 Am. St. Rep. 559.

**6595. Erection and repair of churches, etc.**—Such trustees may repair and alter churches, make rules, regulations, and orders for managing the temporal affairs of the church, congregation, or society, and dispose of all moneys belonging thereto. They may regulate the renting of pews or slips, and the breaking of ground in their cemeteries. Under the direction of the congregation or society they may erect churches and dwellings for their ministers, and other buildings for the use of the church, congregation, or society. They may appoint a clerk and treasurer of their board and a collector, regulate their compensation, and remove them at pleasure. The clerk shall enter all rules and orders made by the trustees, and payments ordered by them, in a book kept for that purpose. (3135)

Ratification of act of building committee (81-32, 83+487).

**6596. Trustees—Term of office—Powers**—The term of office of the trustees shall be three years, and until their successors are qualified. Immediately after their first election they shall be divided by lot into three classes, the first class retiring at the end of the first year, the second at the end of the second year, and the third at the end of the third year; and, as near as may be, one-third of the whole number shall thereafter be chosen annually. Two trustees may call a meeting of their board, and, when assembled, a majority of their whole number shall constitute a quorum for the transaction of any business. Fifteen days before the expiration of the term of office of any trustee the clerk shall give notice of the election of his successor, by posting the same at the place where the society stately meets for worship, therein stating the name of the trustee and the time and place of election; and in addition to such notice the minister or some other officer of such church or society shall give public notice of such election to the congregation at least

one week before the election; and the foregoing provisions shall apply to filling vacancies by death, resignation, or removal. (3136)

**6597. Qualifications of voters—Register, etc.**—No person belonging to any such church, congregation, or society shall be entitled to vote at any election after its incorporation until he has been an attendant on public worship in such church, congregation, or society at least six months before the election, and contributed to its support according to its usages and customs. The clerk of the trustees shall keep a register of all persons who desire to become stated hearers in such church, congregation, or society, and therein note the time of such request, and he shall attend all subsequent elections in order to test the qualifications of such voters in case of question. Nothing in this subdivision contained shall be construed to give the trustees power to fix the salary of any minister, but the same shall be fixed by a majority of the society entitled to vote at the election of trustees. (3137)

Power to fix salary of minister (41-94, 42+922, 4 L. R. A. 692).

**6598. Sale of real estate—"Society" defined**—Any religious corporation organized under the provisions of this subdivision, by and through its trustees, may sell and convey, incumber, or otherwise dispose of any of its real estate; but no such conveyance or incumbrance shall be made by the trustees, except when first authorized by resolution of such society adopted by a two-thirds vote of the members present and voting at a meeting thereof called for that purpose, notice of the time and place and object of which shall be given for at least four successive Sabbaths on which said society statedly meets for public worship, immediately preceding said time. When any religious society ceases to have stated meetings for public worship, or for any cause is unable to give such notice of the time and place of the meeting of such society, said corporation may make such sale, conveyance, or incumbrance by its trustees, upon being so authorized by resolution as hereinbefore specified, adopted at a meeting of which at least twenty days' posted notice has been given. Proof of such notice, meeting, and the adoption of resolution may be made by the affidavit of a trustee or member of the society cognizant thereof. Such affidavit shall be recorded in the register of deeds' office where the certificate of incorporation was recorded, and the same and the record thereof, or certified copies of such record, shall be presumptive evidence of the facts therein contained. The word "society," as used in this chapter, and not otherwise qualified, shall mean the religious body constituted in accordance with the principles of the ecclesiastical polity which forms the basis of the corporation designated in this chapter as the church, congregation, or society, as distinguished from the corporation itself. No person shall vote at any meeting called to authorize the trustees to sell, convey, incumber, or dispose of any real estate of such corporation who is not a member of such religious body, and no such religious corporation shall sell, transfer, or otherwise dispose of any of its real estate in any manner other than as provided by the denominational rules and certificate of association of such society as the same appears of record in the office of the register of deeds of the county: Provided, that nothing herein contained shall in any manner affect or infringe any provision of chapter 59. (3138)

The provisions of R. L. 1905, c. 59, are included in chapter 59 hereof.

**6599. Existing societies confirmed—Reorganization**—Every church, congregation, or religious society heretofore incorporated under any general or special law, and not since dissolved, is hereby confirmed. In case of the dissolution of any such corporation, or of any corporation formed under the provisions of this subdivision, the same may be incorporated or reincorporated under the provisions thereof at any time within six years after such dissolution; and thereupon all the estate, real and personal, at any time belonging thereto, and not lawfully disposed of, shall vest in said corporation the same as though there had been no dissolution. (3139)

37-241, 242, 33+786.

**6600. Lands held in trust**—Lands, tenements, or hereditaments conveyed by devise, grant, purchase, or otherwise, to any persons as trustees in trust for the use of any religious society heretofore or hereafter organized, for a

meeting house, burial ground, or parsonage, with the improvements thereon, shall descend in perpetual succession, and be held by such trustees in trust for such society. (3140)

69-141, 145, 71+1031, 38 L. R. A. 669, 65 Am. St. Rep. 559.

**6601. Appointment of trustees**—Whenever by the constitution, rules, or usages of any particular church, denomination, congregation, or religious society, trustees are required to be appointed, elected, or chosen in any way, by any minister, presiding elder, or other officers, or by any conference, assemblage, body, or meeting of any kind, and are so appointed, elected, or chosen, such minister, presiding elder, officers, or the presiding officer and secretary of any such conference, assemblage, body or meeting so appointing, electing, or choosing trustees, shall execute, acknowledge, and deliver to such trustees a certificate, stating the names of such trustees, the time when and the persons or body by which they were appointed, elected, or chosen, and the name by which such trustees and their successors in office shall forever thereafter be called and known. Upon the filing and recording of such certificate as required by law, such trustees, and their successors appointed or chosen in the same manner, shall be a body corporate under the name specified therein, and have all the rights, powers, and privileges of other religious corporations organized under this subdivision. (3141).

**6602. Certificate of election of trustees**—Whenever trustees have been heretofore elected, appointed, or in any way chosen by a conference or assembly of any kind, of any church or religious society, in accordance with its own constitution, rules, or usages, and a certificate thereof made by its presiding officer and secretary, or either of them, specifying the corporate name by which such trustees are to be known, and duly recorded, with intent to make such trustees a body corporate, they shall in all legal proceedings be deemed a religious corporation under the provisions of this subdivision from the time of the recording of such certificate, and all their acts thereafter as a corporation shall be as valid and as effectual as though originally formed under the provisions of this subdivision; and all conveyances to such trustees as a corporation are hereby confirmed and declared valid. (3142)

**6603. Certificate when designated persons are trustees**—Whenever by the constitution, rules, and usages of any particular church or religious denomination, the minister or ministers, elders, and deacons, or other officers elected by any church or congregation according to such constitution, rules, or usages, are thereby constituted the trustees of such church or congregation, such designated persons may assemble and execute and acknowledge a certificate, stating therein the name by which they and their successors in office shall forever thereafter be called and known. Upon the filing and record of said certificate with the register of deeds of the proper county, such persons and their successors shall be a body corporate by the name expressed therein. (3143)

**6604. Organization of parish corporations**—The bishop of any religious denomination may associate with him the vicar general of the same diocese and the pastor of such denomination of the parish wherein a corporation is to be located, which shall be within the diocese of such bishop, and said bishop, vicar general, and pastor, or a majority of them, shall designate and associate with them two lay members of any such denomination, and, upon adopting, signing, and acknowledging in duplicate a certificate of incorporation reciting the fact of such association, and of the selection of such laymen, and containing the name, general purpose, and place of location of such corporation, and having one such certificate recorded with the register of deeds of the county of its location and the other filed with the secretary of state, the said five persons and their successors shall become a corporation, subject to all the requirements, and vested with all the rights, powers, and privileges, of a religious corporation. The persons at any time holding the offices hereinbefore specified in any diocese shall by virtue of their respective offices be members of, and, with the two laymen aforesaid, constitute, such corporation, but every such person, on ceasing to hold such office, shall cease to be a member there-

of, and his successor in office shall become a member in his place. The two laymen designated as aforesaid shall remain members for the term of two years from the date of the certificate, and thereafter their term of office shall be two years, and in either case until their successors are chosen. They shall always be designated and appointed by the three first named corporators, who shall also fill all vacancies in their number. Their appointment shall be in writing and entered upon the records of the corporation. Should there at any time be a vacancy in the office of bishop of any diocese, or should any other person be appointed in his stead to administer the spiritual and temporal affairs of such diocese, then, during such vacancy or suspension of the authority of such bishop, such administrator of the affairs of the diocese, or any other person appointed under the rules of such denomination to preside over and administer its affairs, shall, while acting as such administrator or appointee, be a member of such corporation, with all the rights and powers incident thereto; but his membership shall at once cease when such vacancy has been filled or suspension of authority removed. If any diocese now existing or hereafter created, in which any such corporation is or may hereafter be located, shall be subdivided according to the rules and practice of such denomination, and one or more new dioceses formed therefrom or from parts thereof, the bishop and vicar general of any such new diocese and their successors in office, as soon as appointed and instituted, shall, by virtue of their respective offices, forthwith become members of any such corporation within such new diocese, with all the rights, duties, privileges, powers, and obligations of such members, and the bishop and vicar general of the diocese in which such corporation was located prior to such subdivision shall cease to be members thereof. (3144)

**6605. Diocesan corporations—Formation—**The bishop of any such diocese may associate with him the vicar general and chancellor of such diocese, and they, or a majority of them, shall designate and associate with them two other members of such religious denomination, residents of such diocese, and upon adopting, signing, and acknowledging in duplicate a certificate reciting the fact of such association and selection of such two persons, and containing the name, general purpose, and location of such corporation, and filing and recording the same, as provided in § 6604, the said five persons and their successors shall become a corporation, with power to take, hold, receive, and dispose of any real or personal property for the use and benefit of such diocese, and for the use and benefit of the religious denomination therein creating such diocese, and to administer the temporalities of such diocese, to establish and conduct schools, seminaries, colleges, or any benevolent, charitable, religious, or missionary work or society of such religious denomination within such diocese, with all the rights, powers, and privileges enumerated in this and § 6604. The persons who may hold the offices, respectively, of bishop, vicar general, and chancellor of such religious denomination within and for such diocese, and their successors in office forever, shall, by virtue of their respective offices, always be members of such corporation, but on ceasing to hold such office the corporate membership of each shall at once cease. The other two incorporators and their successors in office shall always be selected and appointed by the bishop, vicar general, and chancellor of such diocese, or a majority of them, for the same term and in the same manner as provided in § 6604 for the selection and appointment for the two laymen by the bishop, vicar general, and pastor, and all vacancies shall be filled by the three first named corporators. Every such appointment shall be in writing and entered of record in the minutes of the corporation, and such appointees shall be members of such religious corporation and residents of the diocese of its location. Any corporator so selected may at any time resign, and such resignation and its acceptance shall always be entered on the minutes of said corporation. In case of a vacancy in the office of bishop of such diocese or the temporary suspension of his authority to act, the provisions of § 6604 in reference to such a case shall in all respects apply. Any member of either corporation specified in this and § 6604 may by a writing signed by him appoint a proxy to represent and act for him, and in his name and stead to vote at any meeting of such corporation. (3145)

**6606. Formation—Certificate—Powers—**Any parish of the Protestant Episcopal Church organized under and in conformity with the constitution and canons of any diocese now or hereafter existing in this state may form a corporation as follows: Such parish shall cause to be prepared a certificate containing:

1. The name and location of the parish.
2. The name of the rector, if any, and of the church wardens, and the names and number of the vestrymen, which shall not be less than three nor more than nine.
3. The date of the organization of said parish.
4. Said certificate shall be signed and duly acknowledged by said rector, if any, and by a majority of said wardens and vestrymen. (3146)

**6607. Filing certificate—Powers of corporation—**Upon signing, acknowledging, and filing such certificate for record with the register of deeds of the county of its location, such parish shall become a corporation by the name specified in its certificate, and by and through its officers may transact all the business of said parish, including calling a rector and determining his salary; and in its corporate name may acquire or receive by purchase, gift, grant, devise, or bequest any property, real, personal, or mixed, and hold, sell, transfer, mortgage, convey, loan, let, or otherwise use the same for the use and benefit of said parish, provided that such use shall not contravene the laws and usages of the Protestant Episcopal Church of the state; but it shall not have power to divert any gift, grant, or bequest from the purpose specified in writing by the donor, or deviser, nor to sell, convey, or mortgage its church or church site except when first authorized so to do in a meeting of the parish called for that purpose, nor in contravention of the canons of the diocese or of the general convention of the Protestant Episcopal Church of the United States. (3147)

**6608. Annual meeting—Election of vestry—**The annual meeting of said corporation shall be holden at the parish church or parish house, if there be either, on Easter Monday of each year, or at such other time as the parish may designate in its articles of incorporation, at which annual meeting church wardens and vestrymen shall be elected, in such manner as shall be determined upon by the parish, by electors having the qualifications which are or may be prescribed by the canons of the Protestant Episcopal church for the diocese or missionary district in which said corporation is located, in the state of Minnesota; but any parish organized under this law may at any annual meeting adopt a by-law providing for the election of one-third of the vestrymen of said parish for one year, one-third for two years, and one-third for three years, and at said meeting may elect vestrymen in accordance with such by-law; and at each succeeding annual meeting one-third of said vestrymen shall be elected for a term of three years, and said by-laws may also provide that no vestrymen shall, at the expiration of his term of office, be eligible for re-election as vestrymen until the next annual meeting; said church wardens and vestrymen shall hold their respective offices until their successors are elected. (R. L. § 3148, amended '07 c. 18)

**6609. Meetings of vestry—**The rector of such parish shall ex officio be a member, and, when present, the presiding officer of the vestry, and entitled to vote at all its meetings. Meetings may be called by the rector at his discretion, or by either warden at the request of a majority of the vestrymen, on three days' notice in writing to each member of the vestry. (3149)

**6610. Incorporation in other cases—**The members of any church or religious society, not less than three in number, not wishing to form a corporation under any of the preceding provisions of this subdivision, may become a corporation by adopting and signing a certificate containing:

1. Its name, general purpose and plan of operation, and its location.
2. The terms of admission, qualification for membership, selection of officers, filling vacancies, and the manner in which the same is to be managed.

Such certificate shall be recorded with the register of deeds of the county of its location.

And any existing corporation created by special law, which does not desire to incorporate under any preceding provision of this subdivision, may rein-

corporate under the provisions of this section, when authorized by a three-fourths vote of its members present and voting at a stated meeting called for the purpose of considering such reincorporation. (3150)

**6611. Existing churches may incorporate—Reincorporation—**Every church or society organized as such, and not incorporated, may become a corporation by executing, acknowledging, and causing to be recorded with the proper officers a certificate of incorporation under this subdivision. And thereupon, and also when any existing religious corporation shall reincorporate under this subdivision, all property and franchises of every kind belonging to such society or such original corporation, as the case may be, shall vest in the corporation so organized; but rights in pews possessed by any members at the time of any such reorganization shall not be impaired. And such board of trustees or other governing body of any corporation so reorganizing, or their survivors, when requested by the governing board of such new corporation, shall convey to the new corporation, by sufficient deed, all property owned by it. Such conveyance shall recite the fact of such reorganization, shall be prima facie evidence of the facts therein stated, and shall pass all title to the property therein described possessed by the corporation in whose behalf it is executed. (3151)

69-141, 144, 71+1031, 38 L. R. A. 669, 65 Am. St. Rep. 559.

**6612. Diocesan council—Synod—Conference, etc.—Incorporation—**Any diocesan council, synod, presbytery, conference, association, consociation, or other general organization for ecclesiastical or religious purposes, existing in any church or religious denomination in this state, and which, according to the polity, constitution, canons, customs, discipline, or usages of such church or denomination, is composed of or represents several parishes, congregations, or particular churches, may form a corporation by adopting a canon or resolution stating:

1. Its purpose to form such a corporation.
2. Its name and its general purposes and powers, not inconsistent with law.
3. The name of the church or religious denomination to which the body organizing the corporation belongs, and the district or territorial limits of its jurisdiction.
4. The number and official titles of the officers through whom it shall act, and by whom and in what manner such officers shall be elected or appointed, and the length of their terms, and their general duties, powers, and authority.
5. The names and address of those elected or appointed as the first officers of the corporation. (3152)

72-498, 508, 75+692.

**6613. Approval of attorney general—Recording—Amendments—**A copy of such resolution or canon, certified by the presiding officer of the body adopting it, and verified by the affidavit of its secretary or clerk, with the certificate of the attorney general that the same conforms to law indorsed thereon, shall be filed with the secretary of state, who shall record the same at length, including such indorsement, and issue his certificate that, the provisions of law having been complied with, said body has become duly incorporated according to law. The secretary of state shall keep in a book in his office an alphabetical index of all such corporations. The body organizing such corporation or its successor, by resolution or canon adopted by it at two regular successive sessions thereof, and so certified, verified, and recorded with the secretary of state, may amend or modify the resolution under which the corporation was formed, in respect to its jurisdictional limits, or to the number, official titles, terms of office, or the manner of electing or appointing officers, or their duties, powers, and authority, or to the purposes and powers of the corporation not inconsistent with law, and not impairing any trusts or vested rights of property. (3153)

**6614. Special powers of such corporations—**Any such corporation may receive in trust for any parish, mission, local church society, or congregation, whether incorporated or not, any property, real or personal, which may be given, granted, transferred, devised, or bequeathed to it for the use of such parish, mission, local church society, or congregation, for religious, charita-

ble, or educational purposes, and may hold the same, and the rents, issues, and profits thereof, until such parish, mission, local church society, or congregation shall demand a conveyance thereof, accounting from time to time, when required, for the rents, issues, and profits. Any property now held in trust by any person, corporation, or trustees for the use and benefit of the religious body forming a corporation under the provisions of § 6613, or any of its parishes, missions, societies, congregations, or local churches, may, with the consent of the beneficiary, be conveyed and the title thereto vested in the said corporation as the successor in such trust, but no such corporation shall have power in any manner to create any lien upon or incumber any property held by it in trust as aforesaid. (3154)

**6615. Place of annual meeting—Notice—**Any such corporation, the membership of which in part resides in other states, may hold its annual meetings at such points outside the state as it may from time to time designate at a previous annual meeting, or it may authorize its president to designate such place. At least three months before the time of such annual meeting notice of such time and place shall be given by publication in the recognized organ of such corporation, if it has one; otherwise by publication in at least two papers of general circulation published at the capital of the state. (3155)

**6616. Amendment of certificate—**Any religious corporation, by a resolution adopted, certified, acknowledged, and recorded in the same manner as its original certificate, may alter, modify, or add to such original certificate in any manner not inconsistent with law. When recorded, such amended certificate shall take the place of the original. (3156)

**6617. How consolidated—**Any two or more incorporated churches, congregations or religious societies ( ) may consolidate and reorganize as a single church, congregation or society by complying with the provisions of law for the formation of such church, congregation or society contained in this subdivision. (R. L. § 3157, amended '13 c. 42 § 1)

**6618. Procedure—Notice of meeting—Proof—**Before any action is had for that purpose, a resolution authorizing such consolidation and reorganization shall be adopted by at least two-thirds of the members present and voting at a meeting of each of said churches, congregations, or societies called for that purpose, notice of the time, place, and object of which shall be given on four successive Sabbaths, on which such society statedly meets for public worship, immediately preceding the time specified for such meeting. Proof of the fact of such notice, meeting, and resolution may be made by affidavit of one of the officers or members cognizant of the facts, which shall be recorded with the certificate of incorporation. (3158)

**6619. Organization—Powers of new corporation—**After the adoption of such resolution by said several churches, congregations or societies, notice shall be given stating the time and place of the meeting of the united congregation of all said churches, congregations or societies by posting the same at the place where each society statedly meets for worship at least fifteen days prior to such meeting, and the minister or some other officer of each society shall give public notice of said meeting at the usual Sabbath service at least one week before the meeting. The notice for such meeting shall be signed by the clerk of the board of trustees of each church, or by some other person authorized by such board to sign the same. At the meeting of the united congregation held pursuant to said notice, a name shall be adopted for the new corporation and the meeting shall fix the qualifications for trustees and the number of trustees of the new corporation, which shall be not less than three or more than twelve, and a new board of trustees shall be elected by a majority vote of all the members present.

The board of trustees shall be divided into three classes, one class shall be elected and hold office until the next annual meeting of the congregation, one class until the second annual meeting of the congregation, and one class until the third annual meeting of the congregation. Thereafter, the terms of office of the trustees shall be three years and until their successors are elected and qualified. In case a vacancy shall occur in the board of trustees, at the

next meeting of the congregation a successor shall be elected to fill the unexpired term caused by such vacancy.

After said meeting the chairman and secretary shall make a certificate in the form and manner prescribed by section 3133 of the Revised Statutes [6592], and such certificate, together with proof by affidavit of the giving of proper notice of the meeting, and the affidavits provided for in section 3158 of the Revised Statutes [6618], shall be recorded in the office of the register of deeds of the county where the place of worship of said consolidated society is located, and thereupon such churches, congregations or societies shall be merged into a new corporation under the name specified in the certificate and the new corporation shall have the rights, powers and privileges and shall be liable for all the obligations of the several corporations so consolidated and all of the property of every kind and nature of the original corporation shall vest in the new corporation. (R. L. § 3159, amended '13 c. 42 § 2)

**6620. When society ceases to exist, property how disposed of**—Whenever any religious society, which is in any way under the control or supervision of a superior body, ceases to exist or to maintain its organization, all its remaining real and personal property shall vest in and be transferred, in the manner hereinafter provided, to the incorporated annual conference, presbytery, diocese, diocesan council, association, or other incorporated governing or supervising body of the same religious denomination within whose jurisdiction such society was located, or with which it was affiliated, it being intended that said property shall vest in and be transferred to the next higher governing or supervising corporate body of the same denomination. (3160)

**6621. Hearing**—Upon application to the district court of the county where such society was located by any member of the body in which said property is to vest as aforesaid, said court shall appoint a time for hearing the application, and three weeks' published and posted notice thereof shall be given, and any additional notice which the court may direct. If upon the hearing it appears that a proper case exists therefor under § 6620, the court shall adjudge and direct a transfer thereof to be made through a trustee appointed by it for that purpose. Affidavits of the notice may be filed in said proceedings, and they shall be evidence in all actions and proceedings in the courts of the state. (3161)

**6622. General powers of religious corporations**—Every corporation organized under this subdivision may, in its corporate name, sue and be sued, hold, purchase, and receive title by gift, grant, or other conveyance of and to any property, real or personal, with power to mortgage, sell, or convey the same, may adopt all by-laws and make all regulations necessary or expedient for the management of its affairs in accordance with law. (3162)

**6623. Limitation of right to hold property**—Nothing in this chapter contained shall be construed to authorize the taking or holding of real or personal property by any religious corporation for purposes other than those of its incorporation, and all of its provisions are subject to any limitation or modification which may hereafter be enacted by general laws as to the amount of property which may be held by the corporations herein provided for. (3163)

#### YOUNG MEN'S AND YOUNG WOMEN'S CHRISTIAN ASSOCIATIONS

**6624. Young Men's Christian Association—Certificate**—Any number of persons not less than three may form a corporation to be known as a Young Men's Christian Association, by adopting, signing, and acknowledging a certificate of incorporation containing:

1. The names and places of residence of the incorporators;
2. The name of the corporation, the location of its principal place of business, and the period of its duration;
3. The objects of its organization expressly stated;
4. The number of its directors, not less than five nor more than thirty, who shall manage its affairs, how and when, elected, and the time and place of holding annual meetings;
5. The terms of admission to active membership

Such certificate shall be executed in duplicate, and one filed with the secretary of state and the other with the register of deeds of the county of its principal place of business. (3164).

**6625. Classification of members**—The directors may in their by-laws divide the members into active, senior, junior, associate, and such other classes as they may deem convenient, and determine the qualifications for associate membership and provide rules for the trial and expulsion of members. Only active members shall be entitled to vote or hold office in such corporation. (3165)

**6626. Board of trustees may manage real property**—Any such association may create a board of trustees to control its property. Such board shall consist of not less than five trustees, of whom the president of the association shall ex officio be one. Each trustee shall be a member in good standing of some protestant evangelical church, but not more than three, exclusive of such president, and in no case a majority, shall be members of any one church denomination. The first board of trustees shall be elected at any regular meeting of the association by a majority vote of the members thereof entitled to vote thereat present and voting, and shall hold office for such time as may be prescribed by its by-laws. Vacancies shall be filled by a majority vote of the remaining trustees from nominations made by the board of directors or managers. (3166)

**6627. Property rights**—Such board shall have the control of the real property of the association and such other property as its board of directors or trustees may designate. No real property belonging to the association shall be conveyed, disposed of, or mortgaged without the consent of said board, nor shall the same be liable for any debt or obligation of the association unless the same shall have been contracted with its approval. All property so under the control of said board and the income thereof shall be devoted only to the purposes of the association, and so long as the directors and managers of the association shall so expend the same such income shall be paid over to the treasurer of said board of directors or managers. (3167)

**6628. Reincorporation**—Any religious society now conducting its affairs as a Young Men's Christian Association may reincorporate under the provisions of §§ 6624–6627, but in such case the certificate of incorporation shall be executed by all of the directors of such association. Upon such reincorporation, all of the property of such society shall pass to and vest in the corporation so formed, without further action. (3168)

**6629. Young Women's Associations**—That all the provisions of sections 3164 to 3168 [6624–6628] 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)

#### ACTIONS RESPECTING CORPORATIONS

**6630. Mode of prosecution**—Foreign corporations may prosecute in the courts of this state in the same manner as domestic corporations, and neither shall maintain an action upon an obligation or liability arising out of, or in consideration of, an act which is contrary to law or public policy or forbidden to the other. Except as otherwise expressly provided by law, actions against them shall be commenced by summons, and proceed in the same manner as civil actions against natural persons. (3169)

**6631. Mandatory and restraining orders**—Upon complaint filed under the direction of the attorney general in any district court, such court may restrain by injunction any corporation from assuming or exercising any franchise, liberty, or privilege, or transacting any business not authorized by its act of incorporation, and may restrain any individuals from exercising any corporate rights, privileges, or franchises not granted them by law. Such injunction may be issued before answer upon satisfactory proof that the defendant has usurped, exercised, or claimed any franchise, privilege, liberty, or corporate right not granted to it. (3170)

**6632. Power of court over corporation officers**—In any case affecting a corporation the district court may:

1. Require any officer thereof to account for his official conduct in the management and disposition of any funds or property of the corporation at any time in his charge or possession;

2. Compel any such officer to pay to such corporation or to its representative all funds, and the value of all property acquired and held, or transferred to others, or lost, wasted, or damaged, in violation of official duty;

3. Suspend any such officer whenever it appears that he has violated his trust;

4. Remove any such officer upon conviction or satisfactory proof of gross misconduct;

5. Cause an election to be held to fill any vacancy created by such removal, when deemed necessary, in which case it shall appoint a disinterested person to conduct the same under its direction, and, in case of suspension or removal of a majority of the managing board, it may appoint a temporary receiver to act until such suspension shall terminate in the one case, and in the other until the vacancies shall have been filled by new officers duly elected and qualified;

6. Set aside any unauthorized or unlawful alienation of property made by any officer thereof whenever satisfied that the alienee knew or had reasonable cause to believe that such conveyance was unauthorized or illegal;

7. Restrain and prevent any such alienation, threatened or intended;

8. Cause a meeting of its managing board, stockholders, or members to be held when deemed necessary for the preservation of its property or protection of its interests:

Provided, that nothing in this section contained shall be construed to impair any visitatorial power or authority over any corporation vested by law in any corporate body or public officer. (3171)

61-375, 384, 63+1079; 66-437, 439, 69+324.

Subd. 8 cited (109-168, 123+417, 134 Am. St. Rep. 764).

**6633. Appeal—Effect of**—An appeal from an order or judgment removing an officer or trustee, under § 6632, shall not operate to stay its effect or any proceeding under it; but the term of office of any officer, director, or trustee elected thereunder to fill a vacancy, or of any receiver appointed, shall be terminated by a reversal or vacation of such order or judgment. (3172)

**6634. Sequestration—Order of distribution**—Upon complaint of a person obtaining judgment against a corporation or his representatives, made after the return unsatisfied of an execution issued thereon, the court may sequester the stock, property, things in action, and effects of such corporation, and appoint a receiver of the same, and upon final judgment upon any such complaint the court shall order the property remaining, or the proceeds thereof, to be disposed of under its direction, proportionately in the following order:

1. In payment of the costs and expenses of the receivership;

2. Debts due the United States and the state of Minnesota, if any;

3. Taxes and assessments, if any;

4. Claims duly proved and allowed of clerks, servants, or laborers, for services performed within three months preceding the appointment of the receiver, if any;

5. Other claims duly proved and allowed.

After payment of the expenses of receivership and claims of creditors duly proved, the remainder, if any there be, shall be distributed pro rata among the stockholders proving themselves entitled thereto. (3173)

**1. Subdivision generally**—History (48-158, 50+1114; 66-378, 69+144). To be construed liberally (83-71, 73, 85+931). All its provisions are to be harmonized so far as possible (60-355, 62+399). All its provisions are applicable to all corporations except where expressly limited (25-543, 555; 48-158, 168, 50+1114; 61-510, 513, 63+1109). Remedies afforded by this subdivision for the enforcement of the constitutional liability of stockholders exclusive (25-543; 30-173, 176, 14+799; 56-420, 423, 57+1065; 61-373, 63+1024; 116-285, 133+801, 38 L. R. A. [N. S.] 648, Ann. Cas. 1913A, 719).

**2. Who may maintain action**—The plaintiff must be a judgment creditor who has exhausted his legal remedies by having an execution returned unsatisfied (60-355, 62+399), or the assignee of such a creditor (83-71, 85+931). Prior to the revision it was held that under certain circumstances a simple contract creditor might maintain an action to enforce the liability of stockholders (66-378, 69+144; 66-437, 69+324). The omission of G. S. 1894 § 5905 from the revision and the adoption of 1899 c. 272 apparently overrule these cases. A stock-

holder or director who is also a creditor may bring an action to enforce liability of stockholders but the court may turn the management of the case over to another person (70-334, 73+173; 72-312, 75+232; 79-488, 82+984, 50 L. R. A. 273). Special rules apply to an action under § 6641.

**3. Parties defendant**—The plaintiff may in the first instance make the corporation the sole defendant, but the ordinary and correct practice is to make all the stockholders defendants at the outset (44-409, 412, 46+851; 61-359, 361, 63+1068; 65-90, 95, 67+893). All the stockholders within the jurisdiction of the court should be made defendants (25-543, 556; 58-16, 19, 59+632; 73-454, 76+254). An ancillary action may be maintained against defendants omitted in the original action (73-454, 76+254). If the original plaintiff does not make the stockholders defendants at the outset he may do so later by means of an amended or supplemental complaint (65-90, 95, 67+893). If he does so other creditors cannot file supplemental complaints (64-386, 67+217; 70-334, 73+173). If the original plaintiff does not make the stockholders defendants for the purpose of enforcing their liability it may be done on leave of court by other creditors (44-409, 46+851; 48-158, 50+1114; 61-359, 63+1068; 64-386, 67+217; 65-90, 67+893). Stockholders may be made parties either before or after the time limited for filing claims (61-359, 63+1068).

**4. What will prevent or defeat action**—After an assignment for the benefit of creditors under the assignment law of 1876 or the insolvency law of 1881 creditors cannot have a receiver appointed as of right (58-434, 59+1077; 62-501, 65+78, 632). A receivership in an action to foreclose a mortgage will not prevent a receivership hereunder (53-129, 54+1064), nor will an action by a creditor to set aside a fraudulent transfer of corporate assets (60-82, 61+902). A proceeding hereunder will not be defeated by a subsequent assignment under the insolvency law of 1881 (55-139, 56+575; 84-144, 151, 86+872), nor by an action by the attorney general for the forfeiture of the corporation's charter (67-506, 70+803).

**5. Right of creditors to recover corporate assets**—After a receiver has been appointed a creditor cannot maintain an action for the recovery of corporate assets (35-543, 546, 29+349; 44-37, 40, 46+310; 48-361, 51+119).

**6. Appointment of receiver**—How far discretionary (55-139, 56+575). Not subject to collateral attack (64-133, 66+266).

**7. Judgment on which action based**—How far conclusive on corporation and stockholders (65-249, 68+15; 65-324, 68+50, 60 Am. St. Rep. 480; 72-312, 315, 75+232; 80-32, 82+1088). Against corporation and others sufficient (57-325, 59+308).

**8. Return of sheriff**—How far conclusive (44-401, 46+848).

**9. General nature of action**—The object of the action is to wind up the affairs of the corporation; to collect and convert all the corporate assets, appropriating them ratably among all the creditors; and, if there is a deficiency of assets, to enforce the individual liability of stockholders and others to the extent of such deficiency. Rules of equity practice are to be applied when not inconsistent with the statute. The proceedings are exceedingly flexible and susceptible of being molded into almost any form necessary to accomplish their purpose of securing a full and final adjustment of the rights and liabilities of all parties growing out of the corporate business (25-543, 556; 34-323, 327, 25+639; 35-543, 546, 29+349; 44-37, 39, 46+310; 44-409, 412, 46+851; 47-464, 50+601; 56-180, 184, 57+468; 68-95, 99, 70+869; 72-312, 315, 75+232; 73-454, 461, 76+254). The proceeding is under the control of the court and not of the original plaintiff. After it is begun and the complaint filed it is no more that of the plaintiff than it is of any other creditor who appears, files a claim and thus takes part in the litigation. The court may at any time designate which creditor shall have general management of the proceeding (70-334, 338, 73+173; 72-312, 313, 75+232). A creditor cannot maintain the action solely for his own benefit. Whether the original complaint so states or not the action is in behalf of all creditors who may come in (25-543, 556; 35-543, 546, 29+349; 47-464, 466, 50+601; 61-359, 361, 63+1068; 64-386, 388, 67+217; 73-454, 461, 76+254; 79-297, 298, 82+639). The action is in the nature of insolvency proceedings (37-82, 83, 33+117, 5 Am. St. Rep. 822; 47-464, 466, 50+601). The sequestration is in the nature of an attachment or execution on behalf of the creditors (35-543, 546, 29+349; 44-37, 39, 46+310).

Controverted questions of fact may be submitted to jury (103-129, 114+651).

The court initiating insolvency proceedings by appointment of receiver or assignee retains exclusive jurisdiction thereof and of receiver or assignee for all purposes of adjusting in the same proceeding all conflicting interests, and all matters arising out of or connected with the estate, including settlement of accounts of receiver, and surcharging the same on account of losses occurring by reason of his negligence or mismanagement (103-129, 114+651).

See note under section 6363.

**10. Enforcement of stockholder's liability incidental**—The proceeding to ascertain and enforce the liability of stockholders is not an independent action but a step in the original action against the insolvent corporation for the sequestration of its property and the appointment of a receiver (48-174, 190, 50+1117, 15 L. R. A. 470, 31 Am. St. Rep. 650; 65-90, 97, 67+893; 70-349, 352, 73+169; 48-174, 190, 50+1117). Sections 6645-6651 merely regulate the practice in an action or proceeding already begun. They do not authorize an independent action (see 80-125, 133, 83+36). G. S. 1894 § 5905, which authorized an independent action, is omitted from the revision. The liability of stockholders is not a corporate asset and can only be enforced for the benefit of creditors and then only to the extent of paying the corporate debts remaining unpaid after the corporate assets have been exhausted (74-354, 362, 77+234, 407, 968). The court in exercise of its equitable powers will enforce liability of stockholders (116-285, 133+801, 38 L. R. A. [N. S.] 648, Ann. Cas. 1913A, 719).

**11. What liabilities enforceable**—Under this section there may be enforced the liability of stockholders under the constitution (see § 6645); for bonus stock (48-174, 50+1117,

15 L. R. A. 470, 31 Am. St. Rep. 637. See 70-321, 73+189, 68 Am. St. Rep. 530); for stock fraudulently issued at a grossly inadequate price (68-95, 70+869); on unpaid stock subscriptions (47-464, 50+601. See 64-133, 66+266); on stock received for over-valued property (65-28, 67+652); on a guaranty of corporate bonds (77-329, 335, 79+1010); of directors for capital wrongfully withdrawn (44-37, 46+310); of a transferrer of stock (62-152, 64+145); of directors for unauthorized debts (84-408, 87+1016). The liability of stockholders under § 6178 subd. 3 cannot be enforced (66-437, 69+324). Action in nature of creditors' bill under this section to reach unpaid stock subscriptions by resident stockholders of foreign corporation, may be maintained in this state. Complaint sufficient, save for defect of parties plaintiff or defendant, and such defect, not having been objected to by demurrer or answer, was waived (139+606).

**12. Powers and duties of receiver**—Substantially the same as those of an assignee in bankruptcy or a receiver on a creditor's bill or in supplementary proceedings. He succeeds to the rights of both the creditors and the corporation. Everything becomes assets in his hands, and hence in the custody of the law, which were assets as to creditors, as well as what were assets as to the corporation (35-543, 546, 29+349; 44-37, 39, 46+310; 53-129, 132, 54+1064). Nature of his interest in corporate property defined (41-150, 152, 42+865; 69-131, 134, 72+60). Duties administrative or executive. Not required to perform legal services though he happens to be an attorney. Authority to employ counsel (72-320, 75+378). Cannot allow or disallow claims (71-190, 193, 73+856; 72-266, 280, 75+380). Duty to contest improper claims (68-308, 311, 71+274). Duty to file claims presented (84-217, 220, 87+604). He is a trustee of an express trust and should bring actions in his own name as such receiver (70-349, 355, 73+169). He has authority to enforce stockholders' liability (§ 6645); to recover on undertaking entered into by him in violation of an order of court (62-46, 64+84); to recover unpaid stock subscriptions (60-481, 62+817; 64-133, 66+266); to avoid unfiled chattel mortgages (35-543, 29+349); to recover capital wrongfully withdrawn (44-37, 46+310); to avoid a fraudulent mortgage to directors (80-492, 83+418); to avoid a fraudulent judgment (87-52, 91+269); and to enforce the liabilities mentioned in note 11. Prior to 1897 c. 341, 1899 c. 272, it was held that he could not enforce stockholders' liability by action in another state (188 U. S. 56, 23 Sup. Ct. Rep. 244, 47 L. Ed. 380; 189 U. S. 335, 23 Sup. Ct. Rep. 558, 47 L. Ed. 839).

**13. Pleadings**—Complaint under § 6634 held insufficient (62-501, 506, 65+78, 632). Cross-bill by creditor filing claim (64-386, 67+217). Supplemental complaint under § 6634 to charge stockholders (64-386, 67+217; 70-334, 73+173; 70-358, 73+171). Complaint to charge stockholders held not demurrable for defect of parties (72-312, 75+232). Defect of parties waived by failure to demur or answer (44-409, 46+851; 46-54, 48+528, 681; 66-487, 507, 69+610, 1069). Defect of parties not appearing on face of complaint not a ground for demurrer. That plaintiff is a stockholder is not a ground for demurrer (72-312, 75+232). Complaint in action for unpaid stock subscription held insufficient (58-247, 59+1016). Complaint in action to recover for bonus stock held sufficient (48-174, 50+1117, 15 L. R. A. 470, 31 Am. St. Rep. 637). Counterclaims and setoffs (74-354, 362, 77+234, 407, 968; 75-138, 77+788; 76-328, 79+313; 113 Fed. 670; 126 Fed. 429).

**14. Joinder of actions**—66-437, 69+324; 68-95, 70+869.

**15. Defences—Estoppel**—60-82, 61+902; 64-133, 66+266; 67-194, 69+810; 70-292, 73+149; 77-110, 79+606, 46 L. R. A. 618; 77-329, 79+1010; 90-282, 96+85; 95-206, 103+1032.

**16. Assessment**—Cannot reduce extent of constitutional liability (58-167, 59+997). Proportionate when all stockholders not joined (58-16, 59+632).

**17. Allowance of claims**—It is for the court and not the receiver to allow and disallow claims (71-190, 193, 73+856; 71-497, 503, 74+287, 70 Am. St. Rep. 352; 72-266, 280, 75+380). Proceeding by way of motion and order to show cause for allowance of claim held not to bar action on judgment (82-423, 85+156). Judgment on default against corporation after appointment of receiver held not allowable as a claim (68-308, 71+274). Claim on indorsement of note by insolvent allowable without surrender of note (71-497, 74+287, 70 Am. St. Rep. 352). Scope of review on appeal from disallowance (63-393, 65+626). State a preferred creditor (64-400, 67+212).

**18. Miscellaneous**—Right to levy on judgment against insolvent (52-417, 54+872). Right to attach property of stockholders (80-354, 83+1118). Substitution of legatees and devisees of deceased stockholder (80-432, 83+377. See 75-138, 77+788). Compromise of stockholder's liability not binding on non-assenting creditor (74-175, 77+31). Compensation of creditor and attorney prosecuting action for benefit of all creditors (79-297, 82+639. See 74-405, 77+219). Liability of estate of deceased stockholder (56-420, 57+1065). Duty of court to supervise and scrutinize trust account (72-320, 75+378). Fees of attorney for receiver (72-320, 75+378). Distribution of fund among creditors (72-266, 75+380). Statute of limitations (62-152, 64+145; 66-487, 69+610, 1069; 84-144, 86+872; 92-423, 100+222; 103-392, 115+207). Consolidation of separate actions (64-386, 67+217). No redemption from receiver's sale (41-150, 42+862). Interest on stockholder's liability runs from filing of findings of court (72-266, 281, 75+380). Effect of receivership on corporate property (69-131, 135, 72+60). Findings (46-491, 49+252; 66-413, 69+217). Appeals (41-256, 43+180; 51-108, 113, 52+1081. See 60-82, 88, 61+902).

**19. Judgment**—Form and extent (66-487, 69+610, 1069; 72-266, 282, 75+380). Against part of the stockholders does not release the others. In action against omitted stockholders judgment in original action conclusive (73-454, 76+254). Amendment on appeal (75-441, 78+12). Extent of on default (47-464, 50+601). Interest should be allowed on liability from time of filing findings (72-266, 281, 75+380). Creditors appearing cannot attack collaterally (51-108, 52+1081). Modification (79-226, 81+1057).

**6635. Forfeiture of rights—Dissolution—**Whenever any railway company doing business in this state shall charge, demand, or receive unreasonable rates for the transportation of freight or passengers, or when any corporation remains insolvent, neglects or refuses to discharge its notes or other evidences of debt, or suspends its lawful business for one year, or fails to dispose of all its property, with or without payment of all its debts, within the time allowed by law for the liquidation of its affairs, or whenever any corporation shall violate any provision of its articles or certificate of incorporation or any law obligatory upon it, such corporation shall forfeit all its rights, privileges, and franchises, and be adjudged to be dissolved. The attorney general shall make complaint against any corporation which shall in any manner violate any provision of this section or commit any act herein recited, and if upon trial it is found to have committed any such acts the court shall render judgment of forfeiture and dissolution of the corporation. Upon the trial of any action against a railway company for charging, demanding, or receiving unreasonable rates for transportation of freight or passengers, the court or jury shall find specially as to the truth of such allegations. (3174)

36-246, 30+816; 68-500, 505, 71+691, 38 L. R. A. 541, 64 Am. St. Rep. 493.

**6636. 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, amended '09 c. 276 § 1)

44-460, 47+151; 56-171, 57+463; 56-180, 57+468; 60-284, 62+332; 66-378, 384, 69+144; 73-319, 76+59; 74-98, 102, 76+1024.

Applies to stock corporations and to certain corporations without capital stock. Petition may be by majority of members of a nonstock corporation, or by holder or holders of majority of stock of stock corporation (99-475, 109+1116).

**6637. Hearing—Notice—**Upon the presentation of such petition, the court shall fix a time and place for hearing thereon, and order three weeks' published notice thereof to be given, and such other notice to parties interested as it may deem proper. At the time and place so fixed the court shall hear the allegations and evidence of all parties interested, and, if any of the grounds specified in the petition is sustained, shall adjudge the corporation dissolved, and appoint a receiver to close its affairs. (3176)

**6638. State interested, proceedings—**Whenever, in any action or proceeding to dissolve a corporation, it shall appear at any stage of the proceedings that the state is or is likely to be interested therein, or that it is a matter of general public interest, the court shall order that a copy of the complaint or petition be served upon the attorney general, in the manner of serving a summons in a civil action; and the attorney general shall intervene in any such proceeding when in his opinion the public interest requires it, whether so notified or not. (3177)

**6639. Appointment of receiver—Duties—**In any action or proceeding to dissolve a corporation, the court at any time before judgment, or within three

years after judgment of dissolution, may appoint a receiver to take charge of its estate and effects, and to collect the debts and property due and belonging to it, with power to prosecute and defend actions in its name or otherwise, to appoint agents under him, and do all other acts necessary to the final settlement of the unfinished business of the corporation which it might do if in being. The power of such receiver shall continue so long as the court deems necessary for said purposes. Such receiver shall pay all debts due from the corporation, if the funds in his hands are sufficient therefor, and, if not, shall distribute the same ratably among the creditors who prove their debts, in the manner directed by the court; and, if there be any balance after the payment of the debts, he shall distribute and pay the same to and among those who are justly entitled thereto, as having been stockholders or members. Every receiver appointed under the provisions of this chapter shall give bond in such amount as the court shall require, with sureties approved by it. (3178)

56-180, 183, 57+468; 60-284, 289, 62+332.

**6640. Insolvent banks and insurance companies**—Whenever any insurance company or any corporation having banking powers, or the power to make loans on pledges or deposits, becomes insolvent or unable to pay its debts, or neglects or refuses to pay its notes or evidences of debt on demand, or violates any provision of the act under which it was incorporated, or of any other law obligatory upon it, the court may by injunction restrain it and its officers from exercising any of its corporate rights, privileges, and franchises, and from collecting or receiving any debts or demands, and from paying out or in any way transferring or delivering to any person any of its moneys, property, or effects, until otherwise ordered by the court. (3179)

Applicable to a building and loan association (64-349, 67+1); to an insurance company on the co-operative or assessment plan (49-158, 51+908). A building and loan association held not "insolvent" (73-203, 215, 75+1116, 72 Am. St. Rep. 616). Effect of injunction on bank (74-98, 103, 76+1024). Cited (61-510, 513, 63+1109; 66-437, 440, 69+324; 66-487, 496, 69+610, 1069). See cases under § 6641.

**6641. Forfeiture of charter—Receiver—Suit by creditor**—Such injunction may be issued on the complaint of the attorney general in behalf of the state, or of any creditor or stockholder of the corporation. Whenever it issues against a bank for any violation of its charter, on complaint of a creditor, the court shall proceed to final judgment, and if the proof be sufficient adjudge a forfeiture, notwithstanding such creditor may settle with the corporation and relinquish his claim against it. In such cases the attorney general or a creditor may appear and prosecute the action, which shall not be discontinued if either of them so appears and prosecutes the same. At any stage of the proceedings the court may appoint one or more receivers to take charge of the property and effects of such corporation. If such injunction be upon application of a creditor of a corporation whose directors or stockholders are liable by law for the payment of such debts in any event or contingency, such directors or stockholders or any of them may be made parties to the action, either at the time of filing the complaint or at any subsequent time when it becomes necessary to enforce such liability. (3180)

Simple contract creditor may maintain action to sequester assets and enforce stockholder's liability (60-355, 62+399; 64-400, 401, 67+212; 65-139, 67+800; 66-378, 69+144). Appointment of receiver how far discretionary (55-139, 56+575). If a creditor institutes proceedings but takes no steps to enforce the stockholder's liability another creditor may be allowed to intervene for that purpose (65-90, 67+893). Discretionary power of attorney general to bring action (64-349, 67+1). Creditor may maintain separate action to enforce stockholder's liability during pendency of action by attorney general for forfeiture of charter or with leave of attorney general may intervene in the latter action for that purpose (67-506, 70+803). Sale by receiver for inadequate price held properly set aside (68-468, 71+671). Repudiation of lease by receiver. Claim of lessor for damages (74-98, 76+1024). State a preferred creditor (64-400, 67+212). Duty of court to adjudge a forfeiture (74-98, 103, 76+1024). Independent action cannot be maintained against receiver on claim which might be filed under § 6643 (71-190, 73+856). Modification of judgment (79-226, 81+1057). Enforcement of stockholder's liability (25-543; 65-90, 67+893; 72-266, 75+380). See cases under §§ 6363, 6640.

**6642. Unpaid stock subscription, etc.**—Whenever the property of any corporation is insufficient to pay its debts, upon application of a creditor the

court shall order the payment by each stockholder of the amount, if any, unpaid on the shares held by him, or such portion thereof as may be necessary to satisfy the corporate debts, and when necessary may direct the receiver to enforce such order by appropriate proceedings; and on application of a stockholder the court may make such order as will equalize the payments made by stockholders for their stock, and in like manner the court may enforce any liability of directors and officers. (3181)

46-491, 494, 49+252; 68-95, 99, 70+869. See cases under § 6178.

**6643. Order limiting time to present claims—Extension—**The court, upon adjudication of dissolution, shall therein limit the time in which creditors may present claims against the corporation, which shall not be less than six months nor more than one year from its date, and fix the time and place when and where it will examine and adjust the same. No claim or demand shall be received or allowed after the expiration of the time so limited, except by permission of the court for good cause shown, and upon notice to the receiver, but in no case unless presented within eighteen months from the date of adjudication and before final settlement. (3182)

Discretion in allowing creditor to come in after time limited (48-313, 51+377; 69-176, 71+928; 75-286, 77+967; 92-399, 100+100). Order not subject to collateral attack. Order improperly made in one action sustained in another (60-82, 61+902). Cited (67-506, 508, 70+803; 70-334, 337, 73+173; 84-217, 218, 87+604).

**6644. Notice of hearing—**Three weeks' published notice of such order of hearing shall be given, which shall require all creditors to present their claims, duly verified, within the time limited, or be precluded from participation in any distribution of corporate property thereafter made. (3183)

Claims filed are deemed controverted without an answer or reply and must be proved on the hearing unless expressly admitted (64-386, 388, 67+217; 66-361, 368, 69+317; 76-328, 331, 79+313). If claimant desires other relief than the allowance of his claim and such as cannot be had under the original complaint he must apply for leave to file a cross-bill (64-386, 67+217). Filing claim exclusive remedy. Claimant cannot maintain an independent action on claim against receiver (71-190, 73+856). Duty of receiver to file claims presented to him (84-217, 220, 87+604). Presentation of claim not a cross-complaint (47-464, 466, 50+601). Creditors filing claims are parties without any formal order (65-90, 99, 67+893), and are bound by the judgment (51-108, 112, 52+1081). Creditors not filing claims cannot share in proceeds of estate. Creditor filing claims may contest claims of other creditors (68-308, 311, 71+274; 71-190, 193, 73+856).

**6645. Enforcement of stockholders' liability—**Whenever it shall be made to appear by the petition of a receiver or assignee of a corporation, or of any creditor thereof whose claim has been filed, that any constitutional, statutory, or other liability of stockholders or directors or both exists, and that it is necessary to resort to the same, the court shall appoint a time for hearing, not less than thirty nor more than sixty days thereafter, and order such notice thereof as it deems proper, by publication or otherwise, to be given. When the receiver is not the petitioner, personal notice shall be given to him. (3184)

1899 c. 272 did not repeal 1897 c. 341. The latter act, which is repealed by the revision, made it the duty of receivers and assignees to enforce the liability of stockholders (86-42, 90+119). Prior to 1897 c. 341 they had no authority to do so (66-441, 69+331, 38 L. R. A. 415). 1899 c. 272 is a supplementary practice act formulated after the practice followed in this state for the collection of unpaid stock subscriptions when insolvency has ensued (80-125, 133, 83+36). Sections 6645-6647 are constitutional (80-125, 83+36; 84-144, 150, 86+872). Held applicable to proceedings begun prior to its enactment (84-217, 87+604).

Contractual obligations arising out of G. S. 1894 c. 76, adopted to enforce liability of stockholders prescribed by Const. art. 10 § 3, are not impaired by 1899 c. 272, enacted to make remedy more effectual, because, while under old law stockholders who could not be reached by personal service were immune from liability, under new law they need not necessarily be served with process in action in which assessment is made, or because expenses incident to enforcement of liability in other states and against other parties are taken into consideration in estimating amount of assessment. Due process of law is not denied stockholder in domestic corporation by 1899 c. 272, because stockholders need not necessarily be served with process in action in which assessment is made (206 U. S. 516, 27 Sup. Ct. 755. See 195 Fed. 153).

1899 c. 272 did not repeal G. S. 1878 c. 76 §§ 16, 17. It merely provided a cumulative remedy for enforcement of superadded statutory liability of stockholders. The two remedies being concurrent; statute of limitations commenced to run against cause of action at

time when either remedy became available for enforcement of cause of action. Revised Laws did repeal G. S. 1878 c. 76 §§ 16, 17 (100-436, 111+387, 112+862; 100-548, 111+388).

Validity of assessment is not affected as to particular nonresident stockholder by fact that he died before assessment was made, nor because notice was addressed to him, and not to his executor (191 Fed. 823, 112 C. C. A. 337).

If impossible to enforce liability under statutory procedure, court will, in exercise of its general equity powers, give to creditors adequate remedy in action in equity, and may appoint receiver and authorize him to enforce liability, as provided by §§ 6645-6651 (116-285, 133+801, 38 L. R. A. [N. S.] 648, Ann. Cas. 1913A, 719). Merely cited as basis of proceedings (79-414, 82+673; 87-473, 474, 92+403; 90-144, 145, 95+767; 90-172, 174, 95+1110; 90-282, 283, 96+85; 91-96, 97, 97+574; 92-399, 100+100; 95-206, 103+1032; 107-491, 120+1086, 23 L. R. A. [N. S.] 673, 131 Am. St. Rep. 506). See 126 Fed. 429.

**6646. Hearing upon petition**—Upon such hearing, after proof of due service of notice, the court shall receive and consider such evidence by affidavit or otherwise as may be presented by the receiver, or by any creditor, officer, or stockholder, appearing in person or by attorney, upon the following points:

1. The nature and probable extent of the indebtedness of the corporation;
2. The probable expense of the receivership;
3. The probable amount of available assets;
4. The parties liable as stockholders, the nature and extent of the liability of each, and their probable solvency or responsibility.

If it appears that the available assets, or such amount as may be realized therefrom within a reasonable time, will be insufficient to pay such expenses and indebtedness in full and without delay, the court shall order a ratable assessment upon all parties liable as stockholders, or upon account of any stock of such corporation, for such amount, proportion, or percentage of such liability upon or on account of each share of such stock as it shall deem proper, considering the probable solvency and responsibility of the stockholders and the probable expense of collecting such assessment, and shall direct payment of the amount so assessed against each share of such stock to the assignee or receiver, within the time specified in such order. (3185)

Constitutional. Findings of fact unnecessary (80-125, 83+36; 84-144, 150, 86+872). Order levying assessment appealable (84-144, 86+872). Facts to be considered in determining amount of assessment. Assessment held not excessive (84-144, 86+872; 84-217, 220, 87+604).

1899 c. 272 § 3 cited (99-115, 108+849).

See notes under §§ 6647, 6648.

**6647. Contents of order—Conclusiveness**—Such order shall authorize and direct the assignee or receiver to collect the amount so assessed, and, on failure of any one liable to such assessment to pay the same within the time prescribed, to prosecute an action against him, whether resident or non-resident, and wherever found. Such order shall be conclusive as to all matters relating to the amount, propriety, and necessity of the assessment, against all parties therein adjudged liable upon, or on account of, any stock or shares of such corporation, whether appearing or being represented at the hearing or not, or having notice thereof or not. (3186)

Constitutional (80-125, 83+36). Order how far conclusive (80-125, 83+36; 99-115, 108+849; 191 Fed. 823, 112 C. C. A. 337; 195 Fed. 153; 198 Fed. 444).

**6648. Actions for assessments, how and where prosecuted**—Upon expiration of the time specified in the order for the payment of assessments, the assignee or receiver shall commence action against every party so assessed and failing to pay, wherever he or any property subject to process in such action is found, unless he shall report to the court that he believes such stockholder to be insolvent, or that the expenses of the prosecution will probably exceed the amount likely to be collected, in which case the court, unless satisfied to the contrary, shall order action suspended as to such party. (3187)

Presentment of a claim against deceased stockholder for payment of assessment was an action, within 1899 c. 272 § 6 (99-115, 108+849). Where stockholder transferred his stock after his liability in favor of creditor had accrued, he was liable in independent action, and it was not necessary to make transferee party. If defendant desired to have him made party on ground that execution might be enforced against him in first instance, because of his primary liability, application should have been made for such purpose (96-488, 105+901). A chancery receiver of a domestic corporation upon whom, as quasi assignee and representative of creditors, is conferred by 1899 c. 272 authority to maintain action to enforce liability of stockholders, may sue in foreign jurisdiction (206 U. S. 516, 27 Sup. Ct. 755, 51 L.

Ed. 1163). Such receiver may sue in a foreign jurisdiction in court having jurisdiction of parties and subject-matter (162 Fed. 767).

See note under § 6645.

A cause of action to enforce such liability does not accrue, so as to start the running of the six years' limitation prescribed by Code Civ. Proc. N. Y. § 382, until receiver can sue upon assessment after stockholder has failed to pay as required by order of court (206 U. S. 516, 27 Sup. Ct. 755, 51 L. Ed. 1163).

**6649. Additional assessments, how levied—Joinder of causes—**Whenever, at any time after an assessment for an amount less than the maximum stockholder's liability has been levied, it shall appear, by petition or otherwise, and after hearing as hereinbefore provided, that by reason of the insolvency of stockholders, or for any other cause, it is necessary, or for the interest of creditors, that a further assessment be levied, the court shall order the same for such amount, proportion or percentage as it may deem proper; and in the same manner, and with like effect, at any time thereafter may levy additional assessments, not exceeding in the aggregate the maximum stockholder's liability. Whenever two or more assessments shall have been levied, the assignee or receiver may recover therefor in a single action, or, unless otherwise directed, may maintain a separate action against each stockholder for each successive assessment. (3188)

**6650. Proceedings on failure of assignee or receiver to prosecute—**If the assignee or receiver shall neglect to begin an action against any stockholder who has failed to pay his assessment, and is not excepted from the present operation of such order, or to diligently prosecute the same, any stockholder who has paid his assessment in full, or any creditor, may petition the court to order such assignee or receiver to prosecute such action against such delinquent stockholder, or to permit such petitioner to begin and maintain or to continue any such action already begun, in the name of such assignee or receiver, for the benefit of such estate; and if the petitioner shall furnish such security for costs and expenses as the court may direct, it shall either require the assignee or receiver to prosecute such action forthwith, or permit the petitioner to begin and prosecute, or continue the prosecution of the same. (3189)

**6651. Surplus to be divided among stockholders—**Whenever, after the payment of all expenses of such assignment or receivership, and all indebtedness of and claims allowed against such corporation, any surplus money or property remains in the hands of the assignee or receiver, the same shall be equitably distributed, under the direction of the court, among the stockholders who have paid their assessments. Any stockholder who has paid his assessments, in addition to any remedy herein provided, shall be entitled to enforce contribution from any stockholder who has not paid such assessments, and for that purpose shall be subrogated to the rights of the creditors or assignee or receiver of such corporation against every such delinquent stockholder, in such manner and to such extent as may be just and equitable. (3190)