THE CORPORATION ACT OF CONNECTICUT

THE CORPORATION ACT OF CONNECTICUT

AS AMENDED BY THE GENERAL ASSEMBLY OF 1905, 1907, 1909 AND 1911

WITH NOTES AND FORMS

COMPILED THROUGH FIVE EDITIONS
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PREFACE TO FIRST EDITION.

The original object of this compilation was to collate the numerous amendments of the joint stock act, scattered through the annual Public Acts. The revision of the Statutes having accomplished the same result in a better and more condensed form, the work was abandoned. It has been resumed, taking the revision for the text of the law, not with the presumption that the notes and forms will be of value to the profession, but in the hope that they may aid the officers of corporations in the discharge of their duties. The attempt to ensure this end has involved some minuteness of detail in directions, and repetition of forms, which may seem unnecessary to those—but it is believed to those only—not familiar with the records of joint stock corporations as usually kept.

New Haven, January 1, 1866.

PREFACE TO EIGHTH EDITION.

The revision of the Statutes referred to in the Preface to the first edition was that of 1866. A second edition was issued under the same revision. The revision of 1875 caused a third edition. The General Assembly of 1879 provided for the appointment of a commission "To Examine and Revise the Joint Stock Laws." This commission reported to the General Assembly of 1880. The changes made by this act were so radical as to call for an edition giving the text of the new law, with corresponding changes of the old forms. That edition having been exhausted, a fifth edition was presented, giving the amendments of the Act of 1880 up to and including the session laws of 1884. The revision of 1888 necessitated the sixth edition. Amendments after revision of 1888 up to 1899 caused a seventh edition.

The Corporation Act of 1901, included in the general statutes, revision of 1902, differs so materially from the Joint Stock Act that an eighth edition seems called for. The provisions of the Act of 1901 are printed in italics, each section being followed by extracts from the General Statutes relating to the same subject-matter, and these are followed by notes from decisions of the Supreme Court of this State and of the United States.

New Haven, August, 1902.

PREFACE TO NINTH EDITION.

In the ten years that have elapsed since the last edition of this book appeared, the Corporation Laws which were then in force have been largely superseded by an act passed by the General Assembly of 1903, generally known at the present time as the Corporation Act. This Act has itself been the subject of considerable amendment by the last four sessions of the General Assembly and a number of important and interesting decisions affecting corporations generally have been rendered by our Supreme Court since 1902. It has seemed, therefore, in view of these facts, that another edition of this book, which should include these amendments and decisions and forms revised to conform to the Act as amended, would be of practical value not only to the members of the Bar, but to all persons having anything to do with the practical management of the present-day corporation of Connecticut.

As will be seen, the notes of cases in the present edition follow the particular section of the Corporation Act to which they refer. The provisions of the General Statutes and Public Acts are in italics throughout and the notes of cases are distinguishable from the rest of the text by being in small type.

It is a pleasure to acknowledge the efficient and painstaking services and practical suggestions of Thomas M. Steele, Esq., of the New Haven County Bar, which were of material assistance in the compilation of this book.

ELIOT WATROUS.

New Haven, August 1, 1912.

INDEX TO CASES CITED.

PAGE

Allen vs. Curtis, 26 Conn. 456 29
American Asylum vs. Phœnix Bank, 4 Conn. 172 91
Ashley vs. Ryan, 153 U. S. 436 124

Baldwin, Trustee, vs. Wolff, 82 Conn. 559 .....30, 108
Barber vs. Morgan, 84 Conn. 618 14
Barr vs. Bartram & Fanton Mfg. Co. et al., 41 Conn. 506.. 16
Barrows vs. Natchaug Silk Co., 72 Conn. 658 39
Bartholomew et al. vs. Derby Rubber Co., 69 Conn. 521.... 16
Bassett et al. vs. Atwater, Pres., et al., 65 Conn. 355..... 91
Beckwith vs. Windsor Mfg. Co., 14 Conn. 594 15
Bedford vs. Eastern Bldg. & Loan Ass'n, 181 U. S. 227.. 124
Beers vs. Bridgeport Spring Co., 42 Conn. 17.....21, 27
Belfast Mesh Underwear Co., in re, 153 Fed. 224..... 64
Bernheimer vs. Converse, 206 U. S. 516..... 41
Bethany vs. Sperry, 10 Conn. 200..... 48
Bishop vs. Bishop, 81 Conn. 509..... 20
Boardman et al. vs. Mansfield et al., Executors, 79 Conn. 634 .....20, 94
Boardman et al., Trustees, vs. Boardman et als., 78 Conn. 451 20
Briggs vs. Spaulding, 141 U. S. 132..... 30
Bridgeport Bank vs. N. Y. & N. H. R. R. Co., 30 Conn. 231, 139
Brinley et al., Trustees, vs. Grou et al., 50 Conn. 66..... 94
Bulkeley's Appeal, 77 Conn. 45..... 88
Bulkeley vs. Worthington Ecclesiastical Society, 78 Conn. 526 20
Bunnell, Trustee, vs. Bronson, Trustee, 78 Conn. 679..... 70
Bush, Trustee, vs. Ross, 68 Conn. 29..... 22
Butler, Rec'r, vs. Beach, 82 Conn. 417.....32, 64, 109
Butler vs. Cornwall Iron Co., 22 Conn. 335..... 29
Byrne vs. Schuyler Electric Mfg. Co. et al., 65 Conn. 336, 15, 89

Canfield, Trustee, vs. Gregory, 66 Conn. 9..... 114
Central Nat'l Bank vs. Stoddard, 83 Conn. 332..... 48
Central Trust Co. vs. McGeorge, 151 U. S. 129..... 6

PAGE
Chase et al., Trustees, vs. Tuttle et als., 55 Conn. 455....28, 48
Chemical Nat'l Bank vs. Hartford Deposit Co., 161 U. S. 1, 5
Cogswell vs. Second Nat'l Bank, 76 Conn. 252, S. C. 78 Conn. 75 .....21, 103
Colt vs. Ives et als., 31 Conn. 25..... 47
Conn. Breweries Co. vs. Murphy, 81 Conn. 145..... 3
Converse, Receiver, vs. First Nat'l Bk. of Suffield, 212 U. S. 567..... 41
Converse, Receiver, vs. Ætna Nat'l Bank, 79 Conn. 163, 40, 125
Cooper Mfg. Co. vs. Ferguson et al., 113 U. S. 727..... 124
Couch vs. City Fire Ins. Co. of Hartford, 38 Conn. 181.... 17
Crandall et al., Receivers, vs. Lincoln et als., 52 Conn. 73, 22, 36
Curtis, Trustee, vs. Osborn et als., 79 Conn. 555..... 21

Dartmouth College Trustees vs. Woodward, 4 Wheat. (U. S.) 518..... 89
Daughters of Isabella No. 1 et al. vs. National Order of the Daughters of Isabella et als., 83 Conn. 679... 2
Davenport, Receiver, vs. Lines, 72 Conn. 118, S. C., 77 Conn. 473 .....22, 30
Dickerman vs. Northern Trust Co., 176 U. S. 181..... 138
Dutton vs. Connecticut Bank, 13 Conn. 493..... 47

Eastern Bank vs. Capron, 22 Conn. 639..... 38
Ensworth et als. vs. Nat'l Life Ass'n, 81 Conn. 592..... 65
Evarts vs. Killingworth Mfg. Co., 20 Conn. 447..... 5

Fairfield County Turnpike Co. vs. Thorp, 13 Conn. 173, 28, 39, 139
Farmers & Citizens' Bank vs. Payne, 25 Conn. 444..... 139
Farrel Foundry vs. Dart et al., 26 Conn. 376..... 139
Farrell vs. Winchester Ave. R. R. Co. et als., 61 Conn. 127, 17
First Nat'l Bank vs. Hartford Life & Annuity Ins. Co. et als., 45 Conn. 22..... 44
Fish, Receiver, vs. Smith, 73 Conn. 377.....36, 37, 40

Gibbons vs. Mahon, 136 U. S. 549..... 20
Glenn vs. Marbury, 145 U. S. 499..... 40

PAGE
Glenn vs. Liggett, 135 U. S. 533 74
Gold Bluff M. & L. Corp. vs. Whitlock et al., 75 Conn. 669, 27, 111
Goldey vs. Morning News, 156 U. S. 518 6
Goodman vs. White et al., 26 Conn. 317 39
Green, Trustee, vs. Bissell et als., 79 Conn. 547 21
Guarantee Trust & Safe Deposit Co. vs. P., R. & N. E. R. R. Co., 69 Conn. 709 64

Handley vs. Stutz, 139 U. S. 417 40
Hart vs. Boston, H. & E. R. R. Co., 40 Conn. 524 64
Hartford Bank vs. Hart, 3 Day 491 139
Heminway vs. Heminway, 58 Conn. 443 29
Hitchcock vs. Galveston, 96 U. S. 341 17
Hinckley vs. Gilman, 94 U. S. 467 63
Hodges vs. New England Screw Co., 53 Am. Dec. 642 30
Holmes, Booth & Haydens vs. The Holmes, Booth & Atwood Mfg. Co., 37 Conn. 278 2
Howe et als. vs. Keeler, 27 Conn. 538 15
Hygeia Distilled Water Co. vs. The Hygeia Ice Co., 70 Conn. 516: 72 Conn. 646 2

Jacobs vs. Williams et al., 85 Conn. 215 140
Johnston, Trustee, vs. Allis, 71 Conn. 207 37

Kellogg et al. vs. Union Co., 12 Conn. 7 5

Lahiff vs. St. Joseph's Total Abstinence and Benevolent Society, 76 Conn. 648 91
Lamkin vs. Baldwin & Lamkin Co., 72 Conn. 57 115
Lane vs. Brainerd, 30 Conn. 565 28
Lewisohn et al. vs. Stoddard et als., 78 Conn. 575 ..... 38, 40, 124, 129
Litchfield Bank vs. Peck, 29 Conn. 384 39
Litchfield Bank vs. Church, 29 Conn. 137 39
Lothrop et al. vs. Stedman, 42 Conn. 583 89
Lyon et als. vs. Rice et als., 41 Conn. 245 91

Mackay et als. vs. N. Y., N. H. & H. R. R. Co. et als., 82 Conn. 73 ..... 4, 107
Mallory vs. Mallory Wheeler Co., 61 Conn. 131 29

PAGE

Mann vs. Cooke, 20 Conn. 178 37
Marlborough Mfg. Co. vs. Smith, 2 Conn. 579 46
Martin vs. Webb, 110 U. S. 7 30
McCall vs. Byram Mfg. Co., 6 Conn. 427 51
Middletown Ferry Co. vs. Town of Middletown, 40 Conn. 65, 3
Mitchell et als. vs. Hotchkiss, 48 Conn. 9 90
Morse, Adm'r, vs. Consol. Ry. Co., 81 Conn. 395 140
Muller vs. Dows, 94 U. S. 444 3

New Haven Trust Co., Rec'r, vs. Doherty et al., 75 Conn. 555 ..... 28, 30
New Haven Trust Co., Rec'r, vs. Gaffney, 73 Conn. 480.. 37
New Haven Trust Co., Rec'r, vs. Nelson, 73 Conn. 477.... 38
New Haven & Derby R. R. Co. vs. Chapman, 38 Conn. 56, 38, 111
New Haven Wire Co. Cases, 57 Conn. 352 114
New Orleans Debenture, etc., Co., vs. Louisiana, 180 U. S. 320 114
Newtown Savings Bank vs. Lawrence et al., 71 Conn. 358.. 70
N. Y., B. & E. Ry. Co. vs. Motil, 81 Conn. 466....5, 6, 51, 115
New York Firemen Ins. Co. vs. Ely & Parsons, 5 Conn. 560, 15
New York & New Haven R. R. Co. vs. Ketchum, 27 Conn. 170 31
New York Commercial Company vs. Francis et al., 83 Fed. 769 47
N. Y., N. H. & H. R. R. Co. vs. Offield, 77 Conn. 417..... 103
N. Y., N. H. & H. R. R. Co. vs. Offield, 203 U. S. 372..... 103
New York, Hous. & N. R. R. Co. vs. Hunt, 39 Conn. 75.... 114
New York Life Ins. Co. vs. Cravens, 178 U. S. 389..... 124
Northrop, Trustee, vs. Bushnell, 38 Conn. 498..... 39
Northrop vs. Curtis et als., 5 Conn. 246..... 46
Northrop vs. Newtown & Bridgeport Turnpike Co., 3 Conn. 544 46

Occum Co. vs. Sprague Mfg. Co., 34 Conn. 529..... 16
Oregon Ry. & Navigation Co. vs. Oregonian Ry. Co., 130 U. S. 1..... 16, 69
Orient Ins. Co. vs. Daggs, 172 U. S. 557..... 124
Oxford Turnpike Co. vs. Bunnell, 6 Conn. 552..... 46
Parsons vs. Utica Cement Mfg. Co., 82 Conn. 333..... 74

PAGE
Paul vs. Virginia, 8 Wall. (U. S.) 168..... 124
Pearce vs. Olney, 20 Conn. 544..... 5
Pearsall vs. Great Northern Ry. Co., 161 U. S. 646..... 89
Peck vs. Booth et als., 42 Conn. 271..... 91
Pembina Con. Silver Mining & Milling Co. vs. Pennsylvania, 125 U. S. 181.....3, 124
Perkins et als. vs. Coffin et als., 84 Conn. 275.....37, 49, 90
Platt vs. Birmingham Axle Co. et als., 41 Conn. 255..... 44
Pope et al., Receivers, vs. Town & City of Hartford, 82 Conn. 406.....86, 87
Pratt et al. vs. Pratt, Read & Co., 33 Conn. 446.....27, 29
Premier Cycle Co., in re, 70 Conn. 473..... 63

Ray vs. Robert Price Coal Co. et als., 80 Conn. 558..... 64
Reed vs. Copeland, 50 Conn. 472..... 46
Russell, Receiver, vs. Easterbrook, 71 Conn. 50.....39, 46

Savings Bank of New Haven vs. Davis & Center et als., 8 Conn. 191 .....14, 28
Scholfield Gear & Pulley Co. vs. Scholfield, 71 Conn. 1.... 138
Sears vs. Hotchkiss et als., 25 Conn. 171..... 29
Second Universalist Church of Stamford et al. vs. Colegrove, 74 Conn. 79..... 20
Shelton vs. Healy, 74 Conn. 265..... 41
Shepaug Voting Trust Cases, 60 Conn. 553..... 52
Shipman, Trustee, vs. Ætna Ins. Co. et als., 29 Conn. 245, 44, 45
Simonds et al. vs. East Windsor El. Ry. Co. et al., 73 Conn. 513..... 35
Smith, Trustee, vs. Gaylord et als., 47 Conn. 380..... 32
Smith, Trustee, vs. Dana et al., 77 Conn. 543.....20, 27, 94
Smith vs. New Hartford Water Co., 73 Conn. 626..... 138
Smith vs. Board of Water Commissioners, 38 Conn. 208... 139
S. O. & C. Co. vs. Ansonia Water Co., 83 Conn. 611..... 5
Southern Pacific Co. vs. Denton, 146 U. S. 202.....6, 124
Spencer vs. Champion, 9 Conn. 536.....5, 51
Spooner vs. Phillips et al., 62 Conn. 62.....20, 21
Stafford Springs St. Ry. Co. vs. Middle River Mfg. Co. et al., 80 Conn. 37..... 28

PAGE

Stafford Nat. Bank vs. Palmer et als., 47 Conn. 443..... 114
Stamford Trust Co., Trustee, vs. Yale & Towne Mfg. Co. et als., 83 Conn. 43.....20, 34, 42, 49, 93, 115
Stanton et al. vs. N. Y. & E. Ry. Co. et als., 59 Conn. 272.. 114
Starr Burying Ground Ass'n. vs. North Lane Cemetery Ass'n., 77 Conn. 83..... 140
State ex rel. White et al. vs. Ferris et als., 42 Conn. 560.. 46
State vs. Spittler et als., 79 Conn. 470..... 59
State vs. Hartford & N. H. R. R. Co., 29 Conn. 538..... 90
State ex rel. Howard vs. Hartford St. Ry. Co., 76 Conn. 174 91
State vs. Towers, 71 Conn. 657..... 91
Stoddard vs. Shetucket Foundry Co., 34 Conn. 542..... 21
Sullivan County R. R. Co. vs. Conn. River, etc., Co. et al., 76 Conn. 464..... 121

Terry vs. Eagle Lock Co. et als., 47 Conn. 141..... 20
Tobey vs. Hakes, 54 Conn. 274..... 91
Toll Bridge Co. vs. Betsworth, 30 Conn. 380..... 139
Town of Preston vs. Norwich Compressed Air Power Co., 83 Conn. 561..... 3
Town of Southington vs. Southington Water Co., 80 Conn. 646 89

Union & New Haven Trust Co. vs. Taintor et al., 85 Conn., 83 Atl. 697..... 22
United States vs. Northwestern Express Co., 164 U. S. 686, 6

Vansands vs. Middlesex County Bank, 26 Conn. 144..... 47

Ward et als. vs. Griswoldville Mfg. Co., 16 Conn. 593.... 37
Ward et al. vs. Connecticut Pipe Mfg. Co., 71 Conn. 345... 64
Webster & Co. vs. Howe Machine Co., 54 Conn. 394..... 17
Wilson, Trustee, vs. Griswold, 79 Conn. 18..... 70
Winsted Hosiery Co. vs. New Britain Knitting Co., 69 Conn. 565 16
Wood et als. vs. Wiley Construction Co., 56 Conn. 87..... 114
Woronieki vs. Pariskiego, 74 Conn. 224..... 2

Yale Gas Stove Co. vs. Wilcox, 64 Conn. 101.....115, 137

THE CORPORATION ACT OF CONNECTICUT

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PART I.

General Provisions.

Section 1. Application. The provisions of this part shall apply to all corporations heretofore and hereafter organized under any general or special law of this state, except when otherwise expressly stated, but shall not be held or construed to alter or affect any provision of any special charter inconsistent herewith, except as provided in section 37 of this act.

NOTE.

Section 37 provides for annual reports by every company having capital stock with certain specified exceptions.

Sec. 2. Name and Location. The name of every corporation hereafter formed shall be such as to distinguish it from any other corporation organized under the laws of this state and from any other corporation engaged in the same business or promoting or carrying out the same purposes in this state, and every such name shall be in the English Language and shall begin with "The" and end with "Company" or

As amended June 26, 1907, Public Acts 1907, Ch. 155.

"Corporation" or have the word "Incorporated" immediately after or under the name. Every corporation shall be located in some town in this state.

NOTES.

Name. The law will protect a corporation in the use of its name, upon the same principle and to the same extent that individuals are protected in the use of trade-marks. Holmes, Booth & Haydens vs. The Holmes, Booth & Atwood Mfg. Co., 37 Conn. 278 at 293. See also Hygeia Distilled Water Co. vs. The Hygeia Ice Co., 70 Conn. 516, 72 Conn. 646.

A corporation which attempts to appropriate and use the distinctive words in the name of a previously created and existing corporation, to the confusion of the latter's business and its pecuniary injury, as well as to the deception of the public, may properly be restrained from such use by injunction, notwithstanding the two names are not in all respects identical. The Daughters of Isabella No. 1 et al. vs. The National Order of the Daughters of Isabella et als., 83 Conn. 679.

Name indicating that corporation is a bank, trust company, etc., prohibited, except under certain circumstances. See Public Acts of 1911, Chap. 197.

As to conduct of business under Fictitious Trade Names, see Public Acts of 1911, Chap. 277.

A corporation may be variously described in the same instrument if from the whole it appears that one and the same corporation is meant. Therefore, the translation of the proper corporate name, previously used in the instrument, into a foreign tongue in the signature, is immaterial. Woronieki vs. Pariskiego, 74 Conn. 224.

How location may be changed, §§ 73, 74, infra, pages 116, 117.

Limitation on power to change location, § 46, infra, page 92.

Location of corporate property for purposes of taxation, see Gen. St. §§ 2342, Public Acts 1907, Chap. 74, § 5, 184; Public Acts 1911, Chap. 201, 279, and see Town of Preston vs. Norwich Compressed Air Power Co., 83 Conn. 561. (See also page 86, infra.)

The principal place of business of a corporation is the place where its governing power is exercised and not where the labor is performed in carrying out the business it is engaged in. Middletown Ferry Co. vs. Town of Middletown, 40 Conn. 65.

For purposes of jurisdiction of the Federal courts a corporation is treated as a "citizen" of that state in which it is incorporated, the historical theory being that a suit to which it is a party is a suit by or against its stockholders who are conclusively presumed to be citizens of the state incorporating them. See Muller vs. Dows, 94 U. S. 444.

A corporation is a "person" within the meaning of § 1 of the Fourteenth Amendment to the U. S. Constitution, providing that "no State shall deny to any person within its jurisdiction the equal protection of the laws"; but is not a "citizen" within Article IV, § II, Clause 1, providing that "the citizens of each State shall be entitled to all privileges and immunities in the several States." Pembina Consol. Silver Mining & Milling Co. vs. Pennsylvania, 125 U. S. 181.

"The words 'person' and 'another' may extend and be applied to communities, companies, corporations, public or private, societies and associations." Gen. St. 1902, § 1. So a corporation may be granted a license to sell liquor under Gen. St. § 2643 empowering the county commissioners to license "suitable persons." Conn. Breweries Co. vs. Murphy, 81 Conn. 145.

A private corporation may be defined as an association of persons to whom the sovereign has offered a franchise to become an artificial, juridical person,

with a name of its own, under which they can act and contract, and sue and be sued; and who have either accepted the offer (in which case a corporation *de jure* has been constituted), or have done acts indicating a purpose to accept such offer and effected an organization designed to be, but in fact not, in substantial conformity with its terms (in which case a corporation *de facto* has been constituted). Mackay et als. vs. The N. Y., N. H. & H. R. Co. et als., 82 Conn. 73.

Sec. 3. General Powers. Every corporation shall have power, subject to such provisions and limitations as may be contained in its charter, certificate of incorporation, articles of association, or in any statute affecting it: (1) To have succession by its corporate name for the time stated in its charter, certificate of incorporation, or articles of association, and, when no period is limited, perpetually: (2) To sue and be sued and complain and defend in any court: (3) To make and use a common seal and alter the same at pleasure: (4) To hold, purchase, sell, and convey such real and personal estate as the purposes of such corporation shall require, and all other property which shall have been in good faith mortgaged or conveyed to it by way of security or in satisfaction of debts or by purchase at sales upon judgments or decrees obtained for such debts: (5) To elect or appoint, in such manner as it may determine, all necessary or proper officers and agents and to fix their compensation and define their

powers and duties: (6) To make by-laws, consistent with law, fixing the number of its directors and for its government, the regulation of its affairs, and the management of its property: (7) To wind up and dissolve itself, or to be wound up and dissolved, in the manner provided by law.

NOTES.

A corporation may exercise all powers, within the fair intent and purpose of its creation, which are reasonably proper to give effect to powers expressly granted; and in doing this, the corporation must have a choice of the means adapted to ends, and is not to be confined to any one mode of operation. S. O. & C. Co. vs. Ansonia Water Co., 83 Conn. 611.

Duration. A corporation is not dissolved *ipso facto* by its neglect to exercise its corporate franchises, Spencer vs. Champion, 9 Conn. 536 (but see § 24, infra); nor by such neglect coupled with the resignation of its officers, Evarts vs. The Killingworth Mfg. Co., 20 Conn. 447; nor by its insolvency and the subsequent appointment of a receiver. Chemical Bank vs. Hartford Deposit Co., 161 U. S. 1, 4.

Although the neglect of a corporation to comply with its charter requirements may be sufficient to produce a forfeiture of its corporate rights, such forfeiture must first be judicially determined in a direct proceeding on the part of the public, and cannot be taken advantage of in a collateral manner. Kellogg et al. vs. Union Co., 12 Conn. 7; Pearce vs. Olney, 20 Conn. 544; New York, B. & E. Ry. Co. vs. Motil, 81 Conn. 466 at 473.

Where the law under which a railroad company was organized provided that if it did not finish its road within five years its corporate existence and

powers should cease, the extinction of its right to build was held not to destroy, *ipso facto,* its corporate existence, nor extinguish its general right to land which it had acquired. N. Y., B. & E. Ry. Co. vs. Motil, 81 Conn. 466.

Jurisdiction. Though for the purpose of suing and being sued in the Federal courts a corporation is treated as a "citizen" of the state which incorporates it, and for some purposes as a citizen of the United States, United States vs. Northwestern Express Co., 164 U. S. 686; the privilege of exemption from suit outside the district of domicil may be waived by pleading to the merits in a suit brought against it outside. Central Trust Co. vs. McGeorge, 151 U. S. 129. But a corporation sued in a personal action in a court of a state where it neither does business nor is incorporated does not waive the right to object to the jurisdiction of the state court for want of sufficient service of the summons by appearing specially to petition for the removal of the action into a Federal court, Goldey vs. Morning News, 156 U. S. 518; and a foreign corporation cannot be deprived of the right of removal to the Federal courts by a state statute requiring it to agree to submit to process in the state courts as a condition of doing an interstate business in that state. So. Pac. Co. vs. Denton, 146 U. S. 202.

Service of Process on a corporation is provided for by Gen. St., Rev. of 1902, §§ 571, 572, as follows:

§ 571. **Process how served: service on corporations.** *Except as otherwise provided, process in civil actions shall be served by leaving a true and attested copy of it, including the declaration or complaint, with the defendant, or at his usual place of abode, in this state. Process in civil actions against the following described classes of defendants shall be served as follows: in actions against a county, upon one of the county*

commissioners; against a town, upon its clerk or one of its selectmen; against a city, upon its clerk, assistant clerk, or upon its mayor; against a borough, upon its clerk, or upon the warden or one of its burgesses; against a school district, upon its clerk or one of its committee; against other municipal or quasi-municipal corporations, upon its clerk, or upon its chief presiding officer or managing agent. In actions against private corporations, service shall be made either upon the president, the vice-president, the secretary, the assistant secretary, the treasurer, the assistant treasurer, the cashier, the assistant cashier, the teller, the assistant teller, or its general or managing agent, or upon any director resident in this state. In case none of such officers or directors can be found, service may be made upon the person in charge of the business of the corporation, or upon any person who is, at the time of service, in charge of the office of the corporation in the town in which its principal office or place of business is located. In actions against private corporations established under the laws of the United States or of any other state or foreign country, service may be made upon any of the aforesaid officers or agents, or upon the resident attorney of such corporation appointed pursuant to § 83 (of this act).

§ 572. Service of process by advertisement or otherwise. *If any corporation organized under the laws of this state shall have no officer or agent upon whom process against it can be served, any judge, clerk, or assistant clerk, of the superior court, court of common pleas, or the district court of Waterbury, to which any action against said corporation is brought, may authorize service of process in said action upon said corporation by advertisement, or may make such other or further order concerning such service of process as may be deemed reasonable, and service made in accordance with such order shall be deemed sufficient service of process upon said corporation.*

§ 575. **Service on nonresident in cases of quo warranto.** *An information in the nature of quo warranto brought against a nonresident usurping any office in a corporation organized under the laws of this state, may be served upon said nonresident by leaving a copy with the secretary of said corporation if he resides in this state, and, if not, then with the treasurer or assistant treasurer of said corporation, and in case no such officer resides within this state, then service thereof may be made upon the attorney-general of this state; and any such service shall be service upon such nonresident defendant and shall be sufficient notice to the defendant, if he is not a resident of this state, to enable the relator to bring said action to trial.*

Corporation as garnishee. The General Statutes, Revision of 1902, expressly authorize making a corporation a garnishee, and provide for the manner in which it may make disclosure and the effect thereof. The more important sections are as follows:

§ 880. **Process of foreign attachment.** *When the effects of the defendant in any civil action in which a judgment or decree for the payment of money may be rendered, are concealed in the hands of his agent or trustee so that they cannot be found or attached, or where a debt is due from any person to such defendant, or where any debt, legacy, or distributive share, is or may become due to such defendant from the estate of any deceased person or insolvent debtor, the plaintiff may insert in his writ a direction to the officer to leave a true and attested copy thereof and of the accompanying complaint, at least twelve days before the session of the court to which it is returnable, with such agent, trustee, or debtor of the defendant, or, as the case may be, with the executor, administrator, or trustee of such estate, or at the usual place of abode of such garnishee; and from the time of leaving such copy, all the effects of the defendant in the hands of any such garnishee, and any debt due*

from any such garnishee to the defendant, and any debt, legacy, or distributive share, due or that may become due to him from such executor, administrator, or trustee in insolvency, not exempt from execution, shall be secured in the hands of such garnishee to pay such judgment as the plaintiff may recover.

§ 881. **Citing garnishee to disclose.** *The plaintiff may insert in the writ a direction to the garnishee—except he be described as an executor, administrator or trustee in insolvency, in which case he shall not be so cited in—to appear before the court to which the process is returnable and there disclose on oath whether he has in his hands the goods or effects of the defendant, or is indebted to him; and at any time during the pendency of a foreign attachment suit any garnishee who might have been so cited in but was not, may be cited by the court to appear before it, at a time appointed, to make such disclosure.*

§ 882. **Disclosure by garnishee to officer.** *The officer serving process upon any person or corporation named as garnishee shall, at the time of service, make inquiry as to the amount then owed by said garnishee to the defendant in said action; and if said garnishee shall thereupon disclose to the said officer whether anything is then owed to said defendant, and if so, how much, said officer shall then and there indorse such disclosure on said process as a part of his return thereon; and such disclosure shall excuse said garnishee from appearing, unless thereafter summoned as a witness, before the court to which said process is returnable, and said court may without further proof find the fact to be as shown by such disclosure.*

§ 883. **Corporation as garnishee; disclosure; non-appearance.** *If any corporation made a garnishee and cited in to disclose, was not indebted to, and had no effects of, the defendant in its possession when the complaint was served upon it, it need not appear*

before the court to disclose, if it shall cause the affidavit of its treasurer or its paymaster stating such fact to be filed in said court, on the return day of the complaint. If such affidavit shall be so filed and the plaintiff shall bring a scire facias against such corporation upon a judgment rendered against the defendant in the complaint, and it shall be found on the trial that the corporation was not indebted to the defendant and that it did not have his effects in its possession at the time of the service of the complaint, judgment shall be for the corporation to recover its costs.

§ 884. **Liability of garnishee for not appearing.** *If any garnishee, cited in to disclose before a court held in a town other than that in which he resides, was not indebted to the defendant, and had no effects of the defendant in his possession when the writ was served upon him, it shall be a sufficient excuse for his not appearing before said court if he file therein on the return day of the writ his affidavit stating such facts; but if any garnishee, when duly cited in to disclose, shall fail to appear without reasonable excuse, or shall refuse to disclose on oath whether he has any effects of the defendant in his possession, or is indebted to him, then, if the plaintiff shall bring a scire facias against him on a judgment recovered against the defendant in the suit, judgment shall be rendered against such garnishee personally for the costs accrued on the scire facias, though it shall appear that he had no effects of the debtor in his possession and was not indebted to him.*

§ 885. **Disclosure by garnishee.** *The court may examine upon oath any garnishee cited in to disclose as to whether, at the time of the service of the foreign attachment, he had effects of the defendant in his hands, or was indebted to him, and may hear any other proper evidence respecting the same; and if it appear that such garnishee had not effects of the de-*

fendant in his possession, or was not indebted to him, he shall recover judgment for his costs; but if it appear that such garnishee had in his possession effects of the defendant, or was indebted to him, the court shall ascertain the amount, and the same shall, if the plaintiff recovers judgment and brings a scire facias against the garnishee, be prima facie evidence of the facts so found; but the defendant shall then have a right again to disclose on oath, and the parties may introduce any other proper testimony regarding such facts. If the plaintiff, in such action by foreign attachment, withdraws his suit, or fails to recover judgment against the defendant, such garnishee shall be entitled to judgment for his costs.

§ 886. **Service of garnishee process on corporation.** *When any corporation engaged in transacting business in any other town than that in which its secretary or clerk resides, shall be named as agent, trustee, or debtor, of the defendant, in any action commenced by process of foreign attachment, service may be made upon such corporation by some proper officer, by leaving a true and attested copy thereof, at least twelve days before the process is returnable, with, or at the usual place of abode of, its secretary or clerk, or any agent or clerk employed by said corporation to keep its accounts, or pay its employees in the town where it transacts business, and where any moneys, which may be owing to the defendant, are due and payable. When the plaintiff shall recover judgment in any action so brought and obtain execution for the same, a demand by the officer serving such execution on, or at the usual place of abode of, the secretary, agent, or clerk of said corporation with whom service was originally made, shall be a sufficient demand of said corporation.*

§ 887. **Service on disbursing agent or paymaster of garnishee.** *When any corporation having a disbursing agent or paymaster, with an office or place of*

business in this state, shall be named as garnishee, service may be made on it by leaving with such agent or paymaster, or at his said office or place of business, or at his usual place of abode, a duly attested copy of the process in said action, at least twelve days before the return day thereof.

§ 888. **Service on bank or trust company as garnishee.** *Whenever a bank, savings bank, or trust company, is named as garnishee, process shall be served by leaving a copy thereof at the garnishee's principal office during its regular hours of business, or by leaving such copy with its treasurer, cashier, or teller.*

§ 895. **Levy of execution as a discharge of garnishee.** *The taking of any effects or debt by judgment of law out of the hands of an agent, trustee, or debtor of the owner thereof, by process of foreign attachment, shall forever discharge such garnishee.*

Attachment of stock in a corporation in a suit against a stockholder, and levy of execution thereon are provided for by Gen. St., Rev. of 1902, §§ 833, 915.

§ 833. **Attachment of corporate rights or shares.** *Rights or shares in the stock of any corporation, together with the dividends and profits due and growing due thereon, may be attached, and taken on execution. Such attachment shall be made by leaving a true and attested copy of the process, and of the accompanying complaint or declaration, with the proper indorsement thereon, of the officer serving the same, as in other cases, with the defendant, or at his usual place of abode, if within this state, and with the secretary, clerk, or cashier of such corporation, or if such corporation has no secretary, clerk, or cashier, or if he is absent from this state, then at the principal place in this state where such corporation transacts its business or exercises its corporate powers; and such rights or shares, together with the dividends and*

profits, shall be holden to respond to the judgment which may be recovered in said action, for sixty days only after its rendition; and when an officer with a writ of attachment shall apply to such secretary, clerk, or cashier, for the purpose of attaching such rights or shares, the secretary, clerk, or cashier, shall furnish him with a certificate, under his hand, in his official capacity, specifying the number of rights or shares which the defendant holds in the stock of such corporation, with the incumbrances thereon, if any, and the amount of dividends thereon due.

§ 915. **Levy of execution on corporate stock.** *The levy of an execution on the rights or shares which any person owns in the stock of any corporation, together with the interest, dividends, and profits, due and growing due thereon, shall be by leaving a true and attested copy thereof with the secretary, clerk or cashier, with an attested certificate, by the officer making such levy, that he levies upon such rights or shares to satisfy such execution; and thereupon such officer shall, as in other cases, post and sell the same, together with such interest, dividends, and profits, or such part thereof as shall be sufficient to satisfy such execution; and shall give to the purchaser a written conveyance of such rights or shares; and shall also leave with such secretary, clerk, or cashier, a true and attested copy of the execution and of his return thereon; and the purchaser shall thereupon be entitled to all dividends and stock, and to the same privileges as a member of such corporation as such debtor was entitled to. When any proper officer shall, with a writ of execution, apply to such secretary, clerk, or cashier, for the purpose of so levying upon such rights or shares, the secretary, clerk, or cashier, shall furnish him with a certificate under his hand in his official capacity, stating the number of rights or shares the defendant holds in the stock of such corporation, with the incumbrances thereon, if any, and the amount of dividends thereon due; but when any bank incorpo-*

rated by this state, or any banking association located and transacting business in this state, has no cashier, or the cashier is absent therefrom, or any other corporation incorporated under the laws of this state has no secretary or clerk therein, then the rights or shares in the stock of any such corporation may be taken by execution by leaving the copy of the execution and the certificates, in this section prescribed, at the principal house or place in this state, where such corporation transacts its business or exercises its corporate powers.

Shares of stock in a Connecticut corporation which are owned by a nonresident are subject to attachment in the manner prescribed by § 833 as well as those owned by a resident. Barber vs. Morgan, 84 Conn. 618.

The effect of indorsement of Negotiable Paper by a corporation is covered by Gen. St., Rev. 1902, § 4192, as follows:

§ 4192. **Indorsement of corporation or infant.** *The indorsement or assignment of the instrument by a corporation or by an infant passes the property therein, notwithstanding that from want of capacity the corporation or infant may incur no liability thereon.*

Admission of Capacity to Contract. "In an action by a corporation, foreign or domestic, founded upon any contract, express or implied, the defendant shall not, under a general denial, be permitted to dispute, but shall be deemed to admit the capacity of the plaintiff to make such contract." Connecticut Practice Book, 1908, P. 250, § 161.

Seal. An agent of a corporation in executing a deed must affix the corporate seal in order to make it the act and deed of the corporation, Savings Bank of New Haven vs. Davis & Center et al., 8 Conn. 191; but the appointment of the agent to make the deed need

not itself be by a power under seal, id., and it is not necessary that the vote be recorded with the deed in the town records. Beckwith vs. Windsor Mfg. Co., 14 Conn. 594. Gen. St., Rev. of 1902, § 4029, requiring a power of attorney to convey land to be executed in like manner as a deed does not apply to a power to an officer of the corporation given by a vote to transfer corporate land. Howe et als. vs. Keeler, 27 Conn. 538.

Gen. St., Rev. of 1902, § 711, provides as follows:

Seal and its equivalent. *"All instruments in writing executed by any person or corporation not having an official or corporate seal, purporting and intended to be a specialty or under seal, and not otherwise sealed than by the addition of the word seal or the letters L. S., or, in the case of an official or corporate seal, by an impression of such seal upon the paper or other material employed, shall be deemed in all respects sealed instruments, and received in evidence as such."*

As to powers of corporations organized under general laws, see § 59, infra, page 100.

Extent of Powers. A corporation has only such rights as are granted it by its charter, expressly or by necessary implication, or are given it by statute. A corporation chartered to carry on an insurance business has been held not empowered to loan money by discounting notes, such power not being necessary to carry into effect any power expressly granted. New York Firemen Insurance Co. vs. Ely & Parsons, 5 Conn. 560. Nor can a manufacturing corporation transfer all its property to another corporation created for that purpose and carry on business through the agency of the latter company, and a non-assenting stockholder may obtain equitable relief. Byrne vs. Schuyler Electric Mfg. Co. et al., 65 Conn. 336. But under certain circumstances a sale of the

entire property of a corporation for the purpose of paying its debts and winding up its affairs may be legitimate. Id., p. 348.

A court of equity will not, upon the petition of a general creditor, restrain a corporation from converting its assets into money by a sale thereof to a stockholder, when such sale is not in fact in fraud of the stockholders or of the creditors, nor in prejudice of the rights of either, when no stockholder objects, and when the sale is made for an adequate price with the intent to apply the proceeds to the payment of the full amount of the debts of the company or an equal proportion of every debt. Barr vs. Bartram & Fanton Mfg. Co. et al., 41 Conn. 506. See also Bartholomew et al. vs. The Derby Rubber Co., 69 Conn. 521.

A sale by officers, however, in excess of their powers, and not authorized by vote of the corporation or the directors, passes no title to the property so sold. Winsted Hosiery Co. vs. New Britain Knitting Co., 69 Conn. 565.

As a practical matter a corporation which wished to sell all its property, pay its debts and distribute the surplus, if any, would in the present day proceed under § 29 and wind up the corporation.

A corporation chartered for manufacturing purposes cannot legally take a lease of land of no value to it for such purposes, but with the sole object of commencing a suit against another corporation for flowing the land and harassing it under the forms of law. Occum Co. vs. Sprague Mfg. Co., 34 Conn. 529.

The articles of incorporation of a corporation formed under general law stand on the same footing as defining the powers of such corporation, as does the charter of a corporation specially chartered. Thus a railroad organized under general laws of a state has no power to accept a lease of another railroad, such lease not being authorized by the general laws of the state, and in an action for rent accrued it may set up the illegality of the lease. Oregon Ry. & Navigation Co. vs. Oregonian Ry. Co., 130 U. S. 1.

A corporation cannot exercise, under claim of authority by general laws, a power which is expressly excepted out of the powers granted by its charter. Farrell vs. Winchester Ave. Railroad Co. et als., 61 Conn. 127. Similarly a provision in the charter of a fire insurance company that its consent to double insurance must be endorsed upon the policy, cannot be waived by it so as to allow such consent to be proved by any other evidence than such indorsement. Couch vs. City Fire Insurance Co. of Hartford, 38 Conn. 181.

Repeated doing of an act not authorized by charter or statute cannot make the doing of such act lawful, as power cannot be acquired by its repeated unlawful exercise. So an ordinary private manufacturing corporation has no power to accept drafts having no connection with its business, though it has done so repeatedly, and may set up in defense to a suit on such acceptance, at least against one who has not given value, that it was accepted for accommodation merely. Webster & Co. vs. Howe Machine Co., 54 Conn. 394.

Though in general, therefore, a corporation is not bound by a contract which it was not legally empowered to make, there are certain cases where such *ultra vires* contracts, if not expressly prohibited or tainted by fraud, will be given effect after partial or full performance. See Hitchcock vs. Galveston, 96 U. S. 341.

Power as to manufacture of electricity. The powers of corporations in this respect are definitely limited by Public Acts of 1909, Chap. 254, as follows:

"Section 3916 of the general statutes is hereby amended to read as follows: No person or corporation, unless acting under authority from the general assembly, shall, in any city or town of this state whose population exceeds fifteen thousand, manufacture for sale any electricity for the purposes of lighting or power; but this section shall not prevent the manu-

facture or distribution of electricity for the purpose of the business of the manufacturer thereof, or the sale thereof for use in or on buildings or land owned or used by such manufacturer; nor shall this section prevent the manufacture of electricity for sale for the use of others in so far as it can be so used without being transmitted or conducted upon, under, along, or across any highway or public grounds."

Sec. 4. Power to transact business outside the state. Every corporation organized under the provisions of this act, and every corporation heretofore or hereafter organized under any general or special law of this state, shall have power, subject to the limitations of its charter, certificate of incorporation, articles of association, or any statute affecting it, to carry on business in any state or territory of the United States, or in any foreign country, if not prohibited by the laws of such state or territory or foreign country.

NOTE.

For powers of a state to limit operations of a foreign corporation seeking to do business within its borders, see note to § 81, infra, page 122.

Sec. 5. Dividends restricted. No corporation shall pay any dividend or make any other distribution of its assets except from its net profits or actual surplus, unless in accordance with the law allowing the reduction of stock, or upon the dissolution of the corporation. The secretary

shall enter the name of every director voting for any dividend, or any other distribution of the assets, upon the records of the corporation. Every director voting for a dividend or other distribution of assets in violation of this section shall be fined not more than five hundred dollars. If such payment or distribution renders a corporation insolvent, the directors so voting shall be jointly and severally liable, to the amount so paid or distributed, to any creditors existing at the date of such vote who shall obtain judgment against such corporation on which execution shall be returned unsatisfied. No such dividend shall be paid or distribution made unless duly voted by the directors of the corporation.

NOTES.

Dividends on stock held in trust. This is covered by Gen. St., Rev. of 1902:

§ 377. **Who entitled to stock dividend on stock held in trust.** *When any executor, administrator, or trustee holds or shall hold shares of stock in a private corporation, whose use or income belongs to one or more persons, and in which there is a remainder interest in another person or persons, all stock dividends made by such corporation, and all rights to subscribe for new stock in such corporation, shall belong to the trust fund, and shall not be deemed a part of such use or income, unless otherwise expressly declared in the instrument creating said trust, or unless, in case of a stock dividend, the corporation making such divi-*

dend shall expressly declare the same to be made from the earnings of the corporation since the formation of the trust.

Where a large portion of surplus has been set aside and invested, and the stockholders have sold their stock, reserving their interest in said specified assets, which are later divided among such former stockholders, such dividends are treated, as between remaindermen and holders of life interests, as capital and not as income. Second Universalist Church of Stamford et als. vs. Colegrove, 74 Conn. 79.

Undistributed profits, or surplus in any form, may, however, be invested or employed in the business without thereby becoming capital, and until so dedicated to corporate uses through the process of a stock dividend do not cease to be available for distribution as dividends, and when so distributed as dividends belong to the life tenant, such transaction being in no sense a liquidation or surrender of a portion of its capital. Smith, Trustee, vs. Dana et als., 77 Conn. 543. See also Boardman et als., Trustees, vs. Boardman et al., 78 Conn. 451; Bulkeley vs. Worthington Ecclesiastical Society, 78 Conn. 526; Stamford Trust Co., Trustee, vs. The Yale & Towne Mfg. Co. et al., 83 Conn. 43 at 52; Bishop vs. Bishop, 81 Conn. 509; Green, Trustee, vs. Bissell et als., 79 Conn. 547; Boardman et als. vs. Mansfield et als., Exec., 79 Conn. 634.

Section 377 is perhaps merely declaratory of the common law, for as a general rule stock dividends, even when they represent net earnings, become at once part of the capital of the corporation, Gibbons vs. Mahon, 136 U. S. 549; and belong to the capital of a trust fund and not to the life tenant. Spooner vs. Phillips et al., 62 Conn. 62.

For distinction between cash and stock dividends see Terry vs. Eagle Lock Co. et als., 47 Conn. 141.

Where a corporation received shares of its own stock in payment of a debt and voted to distribute

them to its shareholders *pro rata* "as a stock dividend" it was held that such distribution was misnamed, and that it was as much of a cash dividend as if the debt had been paid in cash and the cash distributed, and therefore was to be treated as income rather than as principal where it was paid into a trust. Green, Trustee, vs. Bissell et als., 79 Conn. 547.

Where a trust owned stock in a bank which consolidated with another under an agreement that the assets of each should be liquidated and any surplus held by one in excess of that held by the other should be refunded to its own stockholders, and the old corporation dissolved, it was held that the sum distributed to the trust, being the proceeds of liquidation, went to principal and not to income. Curtis, Trustee, vs. Osborn et als., 79 Conn. 555.

Right of stockholders to dividends. The directors being the responsible agents of a corporation the courts will not interfere with their discretion in its management provided such discretion is fairly exercised, and they cannot ordinarily be compelled in the absence of fraud to declare a dividend even out of earned profits if they deem it wiser to invest such profits in the business. Spooner vs. Phillips, 62 Conn. 62. A dividend once declared, however, out of actual profits cannot be avoided or recalled by a subsequent vote, and a minority of the stockholders may compel its payment. Beers vs. Bridgeport Spring Co., 42 Conn. 17; Cogswell vs. Second National Bank, 78 Conn. 75. After all the stockholders but the plaintiff have been paid a dividend which has been declared the corporation cannot set up in defense to an action by him that the dividend has not been earned, Stoddard vs. Shetucket Foundry Co., 34 Conn. 542; but a receiver may recover from a director and stockholder dividends received by him when he knew or should have known that the corporation was then insolvent, at least as far as necessary to discharge the corporate

indebtedness. Davenport, Receiver, vs. Lines, 72 Conn. 118.

Unauthorized distribution of Assets. A stockholder who, knowing the corporation is insolvent, sells his stock to the company and receives payment from a debtor of the corporation whose debt the corporation releases is liable to a trustee of the corporation subsequently appointed for the amount so received, since the substance of the transaction is a withdrawal of assets of the corporation. Bush, Trustee, vs. Ross, 68 Conn. 29. So a stockholder who conveys his stock to the corporation and receives in return a portion of its assets is liable to the receiver in an action brought for the benefit of creditors, even though he acts through an agent and does not know the corporation is the purchaser, the essential thing being that he has in fact received a portion of the assets. Crandall et al., Receivers, vs. Lincoln et als., 52 Conn. 73.

The stock of a company is its only basis of credit. It is of vital importance that the law should rigidly guard and protect the capital stock. It is in many respects regarded in equity as a trust fund for the payment of debts, to which the creditors have a right prior to any claim of stockholders; and courts will be astute to detect and defeat any scheme or device which is calculated to withdraw this fund or place it beyond the reach of creditors. Crandall et al., Receivers, vs. Lincoln, 52 Conn. 73. See also Bush, Trustee, vs. Ross, 68 Conn. 29.

A dividend on the capital stock of a corporation payable in stock of another corporation which has been purchased by the first corporation out of earnings and held by it as an asset and distributed so that it passed from its control and ownership, has all the characteristics of a "cash dividend," and § 377 above set forth does not apply thereto. Union & New Haven Trust Co. vs. Taintor et al., 85 Conn. 83 Atl. 697.

Sec. 6. Liability for causing insolvency by reducing stock. In case the reduction of the capital stock of any corporation shall render it insolvent, at the time of such reduction, the stockholders voting in favor of such reduction shall be jointly and severally liable, to the amount of such reduction, for all debts of the corporation existing at the time of such vote, after judgment has been obtained against the corporation and execution has been returned unsatisfied. The records of the corporation shall show the name of every stockholder voting in favor of such reduction. No such reduction shall be valid unless the names of the assenting stockholders appear of record as aforesaid, nor unless, within thirty days from the date of the vote authorizing such reduction, a copy of the certificate filed in the office of the secretary of the state shall be published twice a week for two successive weeks in a newspaper published in this state and having a circulation in the town in which such corporation is located.

NOTES.

How stock of specially chartered corporation may be reduced. See § 52, infra, page 96.

How stock of corporation organized under general laws may be reduced. See § 74, infra, page 117.

Sec. 7. New Certificates. The directors, after a reduction of capital stock, may require each

stockholder to return his old certificate, and upon the return thereof shall issue a new certificate for the number of shares to which he is entitled after the reduction; and such corporation, after such reduction, may increase its capital stock to any amount authorized in its charter, certificate of incorporation, articles of association, or in any statute affecting it.

Sec. 8. Loans to officers restricted. No officer or director of any manufacturing corporation shall borrow any of the funds of the corporation or use the same for any purpose other than the business of the corporation without paying interest to such corporation for the use of such money, and without a majority vote of all the directors of such corporation and without furnishing adequate security for such loan.

Sec. 9. Profits may be shared with employes. Any corporation organized after May thirty-first, 1886, may by its board of directors distribute to the persons employed in its service, or any of them, such portion of the profits of its business as said board may deem just and proper. Any corporation organized on or prior to May thirty-first, 1886, may give to its board of directors the power to make such distribution by a majority vote of all the stockholders at a meeting warned and held for the purpose.

Sec. 10. Directors. The property and affairs of every corporation having a capital stock shall be managed by three or more directors, except that the charter of a specially chartered corporation may provide otherwise. Such directors shall be stockholders, except as hereinafter provided, and shall be chosen annually by the stockholders at such time and place as may be provided by the by-laws, and shall hold office for one year and until others are chosen and qualified in their stead; but the original or amended certificate of incorporation of any corporation to which the Corporation Act of 1901 now applies may provide for the classification of the directors, either as to their term of office, or as to their election by one or more classes of stockholders exclusively, or both; provided, that no director shall be elected for a shorter term than one year nor for a longer term than five years and the classification shall be such that the term of one or more classes shall expire each succeeding year. The directors or trustees of any corporation, or the governing board of any corporation having no directors or trustees, may fill any vacancy in their own number for the unexpired portion of the term or until such corporation shall fill such vacancy. A majority of the directors shall constitute a quorum for the transaction of business unless it is provided in a by-law adopted by a stockholders' meeting that less than a majority shall constitute a

quorum. The board of directors of any corporation, by the affirmative vote of a majority of the whole board, may appoint from the directors an executive committee and such other committees as they may deem judicious, and, to such extent as shall be provided in the by-laws, may delegate to such committees any of the powers of the board of directors. If any corporation holds any stock in any other corporation, one director or executive officer of the corporation holding the stock as aforesaid may be chosen director of such other corporation whether he is a stockholder in such other corporation or not, but not more than one director or executive officer of the corporation holding the stock shall be a director in the other corporation unless eligible as a stockholder therein. At least once in each year the directors of every corporation shall make a full and detailed report of the financial condition of the corporation to its stockholders, which report shall be filed with the treasurer of the corporation, or, if there be no such officer, with the president, and be subject to the inspection of the stockholders at all reasonable times. Such report shall contain a statement of the number of shares of stock and the amount of other securities issued by any other corporation and owned by the corporation making the report, with the name and location of such other corporations. Subject to the by-laws adopted by

the stockholders, the directors of any corporation may make and alter by-laws.

NOTES.

Management. The property and affairs of a corporation are under the management and control of the directors and the details are left to their discretion. The courts will not, in general, interfere with the exercise of that discretion so long as they act in good faith. Angell & Ames on Corporations, § 314. They may therefore pass dividends and apply profits to an enlargement of the business, always keeping within the objects for which the company was formed, Pratt et al. vs. Pratt, Read & Co., 33 Conn. 446; Smith, Trustee, vs. Dana et al., 77 Conn. 543; but after declaring a dividend they cannot withhold its payment when it can be paid without serious injury to the business. Beers vs. The Bridgeport Spring Co., 42 Conn. 17.

Chosen annually and for one year. "It seems doubtful whether the provisions of the statute requiring directors to be chosen annually, and for the term of one year, were intended to apply to those who might be appointed upon an increase of the number of directors by an amendment of the by-laws at a special meeting, and whether, without changing the date of the annual meeting, such additional directors might not be appointed to hold office until the time of the next annual meeting." Gold Bluff M. & L. Corporation vs. Whitlock et al., 75 Conn. 669.

Quorum. Measures passed by the majority of the quorum of directors at any meeting are considered as having been passed by the board, except in cases where it may be prescribed by statute, charter, or by-laws that there must be a majority vote of all the directors. See Morawetz on Corporations, § 247.

As to votes purporting to be passed by the directors of a corporation, the law presumes they are passed by

legal directors in the absence of evidence to the contrary. Fairfield County Turnpike Co. vs. Thorp, 13 Conn. 173.

When the meeting of a board of directors of a New Haven bank was called by the cashier under instructions from the president, then in New York, by personal notice to the directors in New Haven without specifying the object of the meeting, it was held that this was a legal meeting for ordinary transactions, including the giving of a mortgage of the bank's real estate to remove a debt. Savings Bank of New Haven vs. Davis & Center et als., 8 Conn. 191.

The management of a corporation cannot be paralyzed by every absence of a director from its place of business or from the state at a time when a meeting of the board seems necessary. Notice to a majority, in such a case, if they, being all that can be reached, proceed to hold the meeting, will, in the absence of any by-law to the contrary, support their action; at least if, as in the present instance, the others subsequently sign and file a waiver of notice, and the corporation acquiesces in what was done by making it the basis of a claim of legal right. Stafford Springs St. Ry. Co. vs. Middle River Mfg. Co. et al., 80 Conn. 37.

Where the record book showed that a quorum was present at a directors' meeting, it was held as presumptive proof that all the directors had been duly notified of the meeting. Lane vs. Brainerd, 30 Conn. 565. Business may be transacted without previous notice when a majority of the directors, happening to be together, all agree to hold a meeting at once for that purpose. Chase vs. Tuttle, 55 Conn. 455. But there is no presumption that a conference of the majority is a regular meeting when no record of the conference has been made. New Haven Trust Co., Receiver, vs. Doherty et al., 75 Conn. 555.

Obligations of Directors and their liability. Directors of a corporation stand for many purposes in the

position of trustees. They may be called to account for fraudulent mismanagement of the corporate property or compelled to declare dividends when they are improperly withheld. Pratt vs. Pratt, Read & Co., 33 Conn. 446. If they mismanage the corporate affairs for their own benefit, a minority of the stockholders may maintain a suit in equity against them for an account and an injunction. Sears vs. Hotchkiss et als., 25 Conn. 171.

Directors have no right under any circumstances to use their official positions for a purpose hostile to the corporation. Heminway vs. Heminway, 58 Conn. 443.

Contracts made by the directors with the corporation advantageous to themselves are voidable, though not void. If ratified they are in equity regarded with suspicion under the rule that one acting in a fiduciary capacity should not use the relation for his personal benefit. Before such contracts can be considered ratified by acquiescence alone the delay must have been unreasonable, the stockholders must have been advised of all the material facts, and must have had an opportunity to act and to act with perfect freedom. Mallory vs. Mallory Wheeler Co., 61 Conn. 131.

An agreement made by a majority of directors, privately, that they should be paid a percentage on all money raised upon the credit of a bond of indemnity, signed by them against the future indebtedness of the corporation, is not binding on such corporation. Butler vs. Cornwall Iron Co., 22 Conn. 335.

Stockholders cannot sue directors for misconduct in office without showing an application to the directors for action by the corporation and refusal on their part to act. Allen vs. Curtis, 26 Conn. 456.

The funds of a corporation cannot lawfully be withdrawn and used to adjust equities between subscribers to its capital stock arising out of their respective subscriptions; and a director who knowingly receives and appropriates to his own use the corpora-

tion's money for such a purpose, is chargeable with constructive fraud, and is bound to refund the amount to a trustee in bankruptcy for the benefit of the creditors of the insolvent corporation. Baldwin, Trustee, vs. Wolff, 82 Conn. 559.

Directors are bound to manage the affairs of the corporation with reasonable diligence and ordinary care, that care which an ordinarily prudent man takes in the management of his own concerns. Angell & Ames on Corporations, § 314.

The law requires of them good faith and ordinary diligence and care in the performance of their duties. Briggs vs. Spaulding, 141 U. S. 132; Martin vs. Webb, 110 U. S. 7, 15.

It is difficult to say what degree of neglect will make a delinquent director liable for loss. A director who diligently attends to his duties and acts according to his best judgment will rarely be held to account. But a director is sometimes liable for a breach of duty of fellow directors in which he took no part, as, for example, if owing to his absence without excuse from a series of meetings they are enabled to commit a wrong. See 53 Am. Dec. 642. And it has been held that where directors relied entirely on reports rendered by an officer without inspecting the accounts themselves, they are liable for false information published by them in an annual statement. See note to Hodges vs. New England Screw Co., 53 Am. Dec. 642.

Directors who are negligent in making a loan without investigating the security are liable to the receiver for the loss thereby caused. New Haven Trust Co., Receiver, vs. Doherty et al., 75 Conn. 555. So directors are liable to the receiver for diversion of assets by declaring dividends fraudulently and in bad faith while capital is impaired. Davenport, Receiver, vs. Lines, 77 Conn. 473.

It is the custom to give a small sum to each director attending each meeting, in order to secure attendance, but directors are not legally entitled to any remunera-

tion for their services as directors even in promoting the credit of the company, nor for any other services except such as are clearly outside those duties which they owe as directors. New York & New Haven Railroad Company vs. Ketchum, 27 Conn. 170.

Sec. 11. Corporation may acquire its own stock. Any corporation not prohibited by any provision in its charter, articles of association, or certificate of incorporation or by any general law, except a bank, trust company, or life insurance company, may acquire, purchase, and hold the stock or securities of any other corporation. Any such corporation, except a bank, trust company, or life insurance company, may acquire, purchase, and hold its own stock. No corporation shall acquire, purchase, and hold its own stock unless to prevent loss upon a debt previously contracted, except with the approval of stockholders owning three-fourths of its entire outstanding capital stock given at a stockholders' meeting warned and held for the purpose; and such corporation shall not vote upon shares of its own stock. No corporation shall purchase any of its own stock when it is insolvent, or by such purchase render itself immediately insolvent. If any corporation shall purchase its own stock when it is insolvent, or so render itself immediately insolvent, the directors assenting to such purchase shall be personally liable for any debts of such corporation existing at the time of such purchase.

The president and treasurer of every corporation acquiring its own stock under the provisions of this section shall, within six months thereafter, make, sign, and swear to and file in the office of the secretary of the state a certificate stating the number of shares of its own stock so acquired, and the secretary shall thereupon record such certificate in a book kept by him for that purpose.

NOTES.

A corporation may if solvent purchase its own stock from an agent retiring from the business and pay for the stock by mortgaging its real estate to the agent. See Smith, Trustee, vs. Gaylord et als., 47 Conn. 380.

The provision in the certificate of incorporation of a grocery company whereby creditors of the partnership which the corporation succeeded were allowed to take preferred stock in it for their claims, to trade out the par value of their stock for groceries furnished by the corporation is a lawful provision and is not in violation of the prohibition in the foregoing section against purchase of its own stock by an insolvent corporation, since this corporation at its organization had no debts. Butler, Receiver, vs. Beach, 82 Conn. 417.

Sec. 12. Receipts for payment of stock subscription; directors' liability. No corporation shall issue any certificates for stock until the stock has been subscribed and paid for in full. The treasurer of such corporation shall issue and deliver to each subscriber a receipt, counter-

signed by the secretary and under the corporate seal, stating the amount such subscriber has paid on his subscription, and the number of shares of full paid and non-assessable stock for which he or his transferee, upon the payment of the balance due upon his said subscription, will be entitled to receive a certificate. Said officers shall enter upon such receipt the dates and amounts of all subsequent payments. The persons to whom such receipts are issued shall be deemed to be stockholders. If any stock shall be paid for otherwise than in cash, a majority of the directors shall make and sign upon the record book of the corporation a statement showing particularly of what the property received in payment for stock subscriptions consists, and that it has an actual value equal to the amount for which it is so received. The judgment of the directors as to the value of property accepted in payment of stock shall be final; but the directors concurring in the judgment of such value, in case of fraud in the overvaluation of such property, shall be jointly and severally liable to the corporation for the amount of the difference between the actual value of any property so accepted in payment at the time of such acceptance, and the amount for which it is received in payment. The secretary shall keep a record of the names of the directors concurring in such judgment of values.

NOTE.

The controlling purpose of this section is not so much to require a technical subscription as it is to prevent the issue of any certificate for shares of stock that have not in some way been fully paid up, because such a certificate might mislead those dealing with the holder by inducing them to suppose that his stock was liable to no assessments. To give it this effect, the word "subscriber" must and properly may be taken as used to include every shareholder, whether he became such by signing a subscription paper, or by purchase from one who had so subscribed, or his assigns, or by purchase from the corporation. Stamford Trust Co. vs. Yale & Towne Mfg. Co., 83 Conn. 43.

This section does not forbid stock dividends to those who have not made a technical subscription for the stock. Stamford Trust Co. Case, supra.

Sec. 13. Calls for stock subscriptions. The directors of every corporation may call in the subscriptions to its capital stock by instalments in such proportion and at such times and places as they think proper, provided they give its subscribers or stockholders such notice as the by-laws provide, or, in the absence of such provision, such notice as they deem reasonable, of the amount of such instalments and the time when they are payable.

Sec. 14. Stock subscriptions not made in good faith. When any commissioners or incorporators authorized to receive subscriptions to the capital stock of any corporation shall be satisfied that any subscription is not made in good

faith, they shall disallow it, and return to the person subscribing such instalment as has been paid by him.

NOTE.

Stock subscriptions, cancellation of. A decree cancelling all the subscriptions to the capital stock of a duly organized corporation ought not to be rendered against the company merely because one of the subscribers has failed to keep his contract with the rest, unless the corporation was a party to such contract or assented to it. Subscribers to the capital stock of a corporation cannot ask for a cancellation of their subscriptions because a majority of the shares have been subscribed for in bad faith and with the intention not to pay for them when no bad faith or fraud on the part of the corporation is claimed. Simonds et al. vs. East Windsor El. Ry. Co. et al., 73 Conn. 513.

Sec. 15. Stock certificates. Upon payment in full for his stock and the surrender of treasurer's receipts, if any, each stockholder shall be entitled to a certificate under the seal of the corporation, which shall be signed by the president or vice-president and by the secretary or assistant secretary or the treasurer or assistant treasurer, certifying the number of shares owned by him in such corporation.

NOTE.

Statements on the margin of stock certificates showing the amount of the capital stock, the number of shares and the par value of each are as much a part

of the certificate as they would have been if embodied in the printed portion thereof. Fish, Receiver, vs. Smith, 73 Conn. 377.

Sec. 16. Stockholders' liability. Every stockholder, whether an original subscriber or not, shall be liable for any balance due on the stock held by him. If a corporation is placed in the hands of a receiver or a trustee in insolvency or bankruptcy, such receiver or trustee shall have the powers of the board of directors in calling in instalments on stock. If a creditor of a corporation shall obtain a judgment against it, and execution thereon shall be returned unsatisfied, such creditor may recover from any stockholder in such corporation the balance remaining due and unpaid on any stock held by him, so far as may be necessary to satisfy the debt. No subscriber for or holder of stock shall be liable as such for any payment of such stock, or for any debt of the corporation, after the par value of his stock has been paid.

NOTES.

Every stockholder is presumed to know the provisions of the charter, the statute laws of the state, and the general principles of law governing corporations. The charter is the contract of membership. Each stockholder when he becomes a member, either as an original subscriber to the stock or as a purchaser, is bound by the provisions of the charter and the general law governing corporations. Crandall vs. Lincoln, 52 Conn. 73, 100.

If a corporation becomes insolvent before the stock is paid up, a creditor can compel the payment of the unpaid instalments although the directors refuse to make the call. Ward et als. vs. Griswoldville Mfg. Co., 16 Conn. 593.

A corporation cannot, under a private arrangement with a subscriber to its stock, receive a subscription for less than its par value, and such an agreement is invalid. Mann vs. Cooke, 20 Conn. 178.

One who subscribes for stock as trustee for the corporation is personally liable. Johnston, Trustee, vs. Allis, 71 Conn. 207.

The fact that an increase of stockholders' liability, pursuant to General Statutes § 3911, would attend entering upon the business of generating and selling electricity, would not make a charter amendment whereby a corporation was authorized to utilize certain water power by a method which involved its conversion into electricity and transmission to the point of use by means of an electrical generation and transmission plant, a fundamental change. Perkins et als. vs. Coffin et als., 84 Conn. 276.

Present limitations upon the liability of stockholders and tax exemptions do not possess the character of contractual rights of such a nature that the state may not, in the exercise of its reserved power, change them for the protection of the rights of the public or of creditors. (Ibid.)

A receiver of an insolvent corporation can issue calls on stock or sell the right to collect unpaid subscriptions. Fish, Receiver, vs. Smith, 73 Conn. 377.

One who buys originally issued shares of stock from the corporation itself occupies substantially the position of an original subscriber. New Haven Trust Co. vs. Gaffney, 73 Conn. 480.

A corporation has power to compromise a *bona fide* dispute as to the amount that is due from a stockholder upon his stock, and such compromise agreement when executed is a valid defense not only against the corporation but its creditors as well. New

Haven Trust Co., Receiver, vs. Nelson, 73 Conn. 477.

Special liability of stockholders in telegraph, telephone, electric light or power companies is provided for by § 3911 of the General Statutes of 1902, as follows:

§ 3911. Stockholders liable for debts. *The stockholders of every telegraph, telephone, or electric light or power company, organized under the laws of this state, shall be jointly and severally liable to any creditor of such company for the payment of any debt due to him contracted or due during the time of their holding stock therein, to the extent of twenty-five per cent. of the amount of stock held by them respectively; provided, that such creditor shall first obtain a judgment against the company, and an execution thereon shall be returned unsatisfied, and suit shall be brought against such stockholder or stockholders, while they respectively continue to hold any of such stock, or within two years after they cease to hold it.*

If a corporation refuses to collect unpaid subscriptions to its capital stock, a creditor may sue the subscribers and the corporation for the purpose of enforcing payment; and if the corporation has been dissolved those who then represent it under the law of the state which created it, may, under similar circumstances, be made defendants in its stead. Lewisohn et al. vs. Stoddard et als., 78 Conn. 575, 592.

The debtor of an insolvent bank cannot set off as against the receiver the bills of the bank which he held at the time the note upon which he is sued fell due. The Eastern Bank vs. Capron, 22 Conn. 639.

An amendment to the charter of the New Haven & Derby Railroad authorizing the City of New Haven to subscribe for its stock did not impair the rights of the defendants as stockholders or relieve them from liability on their subscriptions. New Haven & Derby R. R. Co. vs. Chapman, 38 Conn. 56.

The promoter of a corporation is estopped to set up irregularities in its organization as a defense to an

action by a trustee in insolvency to recover unpaid instalments. Canfield, Trustee, vs. Gregory, 66 Conn. 9.

It is doubtful if an original subscriber to the stock of a corporation can avoid his obligation by showing that it was procured by fraud in its organization, but a purchaser of transferable shares may set up the fraud as a defense to his note, even after the insolvency of the corporation, and against the receiver. Litchfield Bank vs. Peck, 29 Conn. 384; Litchfield Bank vs. Church, 29 Conn. 137.

A parol condition annexed to a subscription for stock cannot be shown. Fairfield County Turnpike Co. vs. Thorp, 13 Conn. 173.

A court of equity may cancel subscriptions obtained by fraud and allow stockholders to recover the amount paid thereon. Goodman vs. White et al., 26 Conn. 317.

An agreement by the officers of a corporation approved by a vote of the directors releasing a stockholder from liability to pay his subscription in full, and accepting a smaller amount in settlement will be set aside as a fraud on the creditors, if the corporation afterwards becomes insolvent. Northrop, Trustee, vs. Bushnell, 38 Conn. 498.

Until the transfer of stock is actually made, the legal title, and the legal rights and liabilities of the stockholder of record, remain unchanged. A receiver may, therefore, recover an unpaid assessment from a stockholder of record although such stockholder had contracted with a third person to take the shares, and the third person wrongfully refused to accept them and declined to allow the same to be transferred to him. Russell, Receiver, vs. Easterbrook, 71 Conn. 50.

One who retains shares of stock irregularly issued and for years receives dividends thereon, with knowledge, actual or constructive, of the circumstances under which the stock is issued, is estopped from setting up such irregularities in an action by the receiver of the insolvent corporation to recover the

balance due on his stock subscription. Barrows vs. The Natchaug Silk Co., 72 Conn. 658.

A stockholder, whose subscription is obtained by fraudulent representations of which he has knowledge or the means of knowledge, must act promptly in rescinding his contract, or he will be bound thereby. (Ibid.)

The statute of limitations begins to run against an action against a stockholder in an insolvent corporation in the hands of a receiver to recover unpaid assessments on his stock, when the court orders the assessment to be made. Glenn vs. Marbury, 145 U. S. 499.

Unpaid instalments of increased capital stock are subject to call to pay creditors whose debts accrued subsequent to the authorization of the increase, but not to pay creditors whose debts were contracted prior to such authorization. Handley vs. Stutz, 139 U. S. 417.

Liability of stockholders under laws of other states. Several cases have arisen in this state where it was sought to enforce the liability of a stockholder for assessments on unpaid stock subscriptions under the laws of the states which created the corporation, and such liability has been uniformly enforced by our courts. Fish, Receiver, vs. Smith, 73 Conn. 377; Lewisohn et al. vs. Stoddard et als., 78 Conn. 575; Converse, Receiver, vs. Ætna Nat. Bank, 79 Conn. 163.

The stockholder's liability to pay his share of the debts of the corporation, in the event of its insolvency, depends upon and must be determined by the laws of the state creating the corporation which were in force when he became a stockholder. The mode of enforcing this liability may be varied within reasonable limits by subsequent legislation, but the amount of such liability cannot thereafter be materially increased without the stockholder's assent. Converse, Receiver, vs. Ætna Nat. Bank, 79 Conn. 163.

Applying this rule the Supreme Court of this state

in the above case held unconstitutional a statute of the State of Minnesota enacted in 1899 which radically changed the statutory procedure for enforcing the double liability of stockholders imposed by its Constitution, holding that in respect to those stockholders who became such prior to the passage of the act, it was unconstitutional as an attempt to increase their obligations under contracts previously made, which if effectual, would amount to a deprivation of their property without due process of law.

This judgment was reversed on writ of error to the United States Supreme Court, on the authority of Bernheimer vs. Converse, 206 U. S. 516, in the case of Converse vs. First Nat. Bank of Suffield, 212 U. S. 567.

Liability of Officers for fraud. Representations made by the president of a corporation, as an inducement to buy its stock, that the output was six million bricks a year, that all bricks to be made the following summer had been sold, that stock would yield good income, that it had been fully paid for in cash, that there was none for sale on market, that defendant would not sell his for $150, and that no assessment would be levied on it, are to be regarded as statements of fact and not mere expressions of opinion, and consequently defendant was liable to one having bought stock relying on such representations. Shelton vs. Healy, 74 Conn. 265.

Sec. 17. Fractional shares or rights. No certificate for fractions of shares shall be issued. Whenever fractional rights result from an increase or reduction of capital stock and the stockholders fail to combine the same by purchase or sale, the directors shall, after due notice, sell such rights to the highest bidder and issue proper certificates therefor.

See Stamford Trust Co. vs. Yale & Towne Mfg. Co., 83 Conn. 51.

Sec. 18. Stock books. At least three days before every stockholders' meeting, a complete list of the stockholders entitled to vote, arranged in alphabetical order, shall be prepared by the secretary, and such list shall be open to inspection by any stockholder at the time and place of the meeting. Any such secretary who neglects or refuses to produce such list at any meeting or refuses to permit an inspection thereof by any stockholder entitled to vote shall be ineligible for election to any office in such corporation for one year thereafter. The stock ledger, if there be one, otherwise the transfer books of the corporation shall be *prima facie* evidence as to who are stockholders. The original or duplicate books of any corporation in which the transfers of stock shall be registered, and the original or duplicate books containing the names and addresses of the stockholders and the number of shares held by them, respectively, shall, at all times during the usual hours of business, be open to the examination of every stockholder at its principal office or place of business in this state, and such original or duplicate books shall be evidence in all courts of this state.

As amended by Ch. 215, Public Acts of 1911.

Sec. 19. Lost certificates. Every corporation may issue a new certificate of stock, or treasurer's receipt for payment on subscription for stock, in place of any certificate or receipt issued by it which is claimed to have been lost or destroyed, and the directors may, in their discretion, require the owner of a lost or destroyed certificate or receipt, or his legal representatives, to give a bond to the corporation in such sum as the directors may direct, not exceeding twice the value of the stock or receipt, to indemnify the corporation against any claim that may be made against it on account of the issue of such new certificate or receipt; and a new certificate or receipt may be issued without requiring any bond when, in the judgment of the directors, no bond is necessary. The superior court in the county wherein such corporation is located shall, for due cause shown, upon complaint of the owner of a lost or destroyed certificate or treasurer's receipt, order the delivery to him by said directors of a new certificate or receipt in lieu thereof, and may require a proper bond for the protection of the corporation and of any person who may be interested in the lost certificate or receipt.

Sec. 20. Pledge of stock. Shares of stock in any corporation organized under the laws of this state or of the United States, or treasurer's receipts for payment on subscription to the

stock of any corporation organized under the laws of this state, may be pledged by delivering the certificate of such stock or such receipt to the pledgee, with a power of attorney for its transfer; but no such pledge shall be effectual to hold such stock against any person other than the pledgor, his executor, or administrator, unless there shall be an actual transfer of the same upon the books of the corporation, or unless a copy of such power of attorney shall be filed with the corporation.

NOTES.

Where the certificate of stock and the power of attorney to transfer the same to the name of the pledgee had been delivered, but no actual transfer had been made on the books of the company, which had no notice of such pledge, the trustee in insolvency of the stockholder of record was entitled to hold the stock. Shipman, Trustee, vs. Ætna Insurance Co. et als., 29 Conn. 245.

The lien of a corporation on its stock is not avoided by a pledge of the stock without actual transfer or notice. Platt vs. Birmingham Axle Co. et als., 41 Conn. 255; First Nat'l Bank vs. The Hartford Life & Annuity Insurance Company et als., 45 Conn. 22.

Sec. 21. Stock transfer; corporation lien. The stock of every corporation, except when otherwise provided in the charter of a specially chartered corporation, shall be personal property, and, with the treasurer's receipts for payments on stock subscriptions, shall be transferable only on its books in such form as the by-laws

shall prescribe. Whenever any transfer of stock shall be made for collateral security, the entry of the transfer on the books of the corporation shall state that it is made for collateral security. Every corporation shall at all times have a lien upon all of its stock owned by any person for all debts, including instalments duly called in, due to it from him, and may sell the debtor's interest in said stock, or in so much thereof as may be necessary to discharge such indebtedness and the expense of such sale, at public auction at any time after the debt secured thereby becomes due and payable, upon giving to the stockholder, his executor, or administrator, and if there be none, his heir-at-law, a written notice, by mail, of at least twenty days and advertising such sale at least twice in a newspaper of this state having a circulation in the town where such corporation is located, not less than one week prior to the date of sale. Any surplus arising from such sale shall be paid to the stockholder.

NOTES.

A mere agreement to transfer stock, the performance of which is prevented by an intervening attachment, passes no title as against the attaching creditors, even though the stock certificate is delivered and a power of attorney to transfer it. Shipman vs. Ætna Insurance Co., 29 Conn. 245. It was held as early as 1824 that a charter providing that stock should be transferable "only on the books of the company" did

not mean that the original transfer must be on the books, but that a written assignment executed as required by the by-laws and reasonably registered at length on the books was a transfer on the books of the company, Northrop vs. Curtis et als., 5 Conn. 246, and this would undoubtedly be held today. The equitable title to stock, however, can pass by contract or by sale or by gift by the delivery of the certificate with intent to pass title. Reed vs. Copeland, 50 Conn. 472. But the requirements of the by-laws must be complied with, and where it is provided by by-law that the assignment must be written in the treasurer's book and subscribed by the assignor or his attorney, a mere entry of credit on the treasurer's book for the amount of the stock is insufficient to make the assignee a stockholder liable to assessment. Marlborough Mfg. Co. vs. Smith, 2 Conn. 579. See also Northrop vs. Newtown & Bridgeport Turnpike Co., 3 Conn. 544; Oxford Turnpike Co. vs. Bunnell, 6 Conn. 552.

The corporation books and records determine who are stockholders for the time being and who have a right to vote the stock, although the equitable title may have been sold or it may have been pledged as collateral. The person who appears on the books to be the owner may vote on the stock standing in his name and is eligible to the office of director as a stockholder. State, ex. rel. White, et al. vs. Ferris et als., 42 Conn. 560.

Until a transfer of stock is actually made on the company's books the legal title, and the legal rights and liabilities of the stockholder of record remain unchanged and a receiver may recover an unpaid assessment from such stockholder though he has contracted with a third person to take the shares and such third person has wrongfully refused. Russell, Receiver, vs. Easterbrook, 71 Conn. 50. And the recording agent may properly decline to permit a transfer of its stock to be made on its books to a person who refuses to consent thereto. (Ibid.)

Since title can pass as against third persons only by transfer on the books of the company, an attaching creditor is not bound to look beyond the books to see whether his debtor has made any assignment of the stock standing in his name. Dutton vs. Connecticut Bank, 13 Conn. 493. See also Colt vs. Ives et als., 31 Conn. 25.

Since, however, the equitable title may pass as between the parties without a transfer on the books, a general assignment for the benefit of creditors gives the trustee an equitable title subject to the corporate lien for the stockholder's debt. Vansands vs. Middlesex County Bank, 26 Conn. 144. The beneficial owner of stock in a Connecticut corporation is not precluded, by the mere fact that he has permitted it to stand in the name of another on the books of the corporation, from asserting his right thereto as against an attaching creditor, in the absence of fraud or grounds of estoppel. N. Y. Commercial Co. vs. Francis et al., 83 Fed. 769.

Sec. 22. Calls for meetings; changes in by-laws. All stockholders' meetings shall be held in this state and, except the first, at such time and place as shall be provided in the by-laws. A written or printed notice of every such meeting, stating the day, hour, and place thereof, shall be given by the president or secretary to each stockholder, by leaving such notice with him or at his residence or usual place of business, or by mailing it to him at his last known post office address, at least five days before such meeting. At any such meeting by-laws may be adopted, or the by-laws previously adopted may be altered or repealed. No by-laws shall be adopted, and no existing by-law shall be

amended or repealed, unless written notice of such proposed action shall have been given in the call for the meeting at which such adoption, amendment, or repeal is to be acted upon.

NOTES.

For call of first meeting, and waiver, see § 67, infra, page 109.

To constitute a legal meeting the notice thereof should show that it was called by the person authorized to issue the call, and if called by one who is unauthorized, though he affix the names of those authorized to issue the call, without previous authority or subsequent ratification, the meeting is illegal. Bethany vs. Sperry, 10 Conn. 200.

Where the record states that the meeting was called for a special purpose it will be presumed, until the contrary is shown, that the purpose was specified in the call, and the burden of proof is upon the party denying it. Chase et al., Trustees, vs. Tuttle et als., 55 Conn. 455.

Proof that a letter containing a notice, properly stamped and addressed, has been posted, furnishes proper ground for an inference that the notice has been given, Central National Bank vs. Stoddard, 83 Conn. 332, and this rule presumably would apply to notice of a meeting.

Quorum. Unless the by-laws require that a majority, or some other proportion of all the stockholders, are necessary to constitute a quorum, such of them as are present will be authorized to transact the business for which the meeting was properly called, and the acts of a majority of those present will bind the corporation. It is, of course, provided by § 25 that, in the absence of a provision to the contrary in the charter, certificate of incorporation, or statute, each share of stock shall be entitled to one vote.

The ordinary manner in which stockholders in a corporation give directions is, in the absence of a charter or statutory provision to the contrary, by a vote of the majority of the shares represented at a meeting of the corporation duly called. The Stamford Trust Co., Trustee, vs. The Yale & Towne Mfg. Co. et als., 83 Conn. 43.

Alterations in the charter of a corporation which make a material or fundamental change therein will not become operative unless accepted or assented to by all the stockholders. Those which make auxiliary or incidental changes only will become operative upon acceptance by a majority. The right of the majority to rule in respect to charter changes of the latter class, as in all matters relating to the corporate business and policy within the authority of the charter, is implied in the contract into which the stockholders enter. Perkins et als. vs. Coffin et als., 84 Conn. 275.

Sec. 23. Special meetings, how called; waiver. The president of every corporation may, and, upon the written request of three or more members of a corporation having no capital stock, or of one or more stockholders holding at least one-tenth of the capital stock of a corporation having capital stock, shall, call a special stockholders' meeting and cause legal notice thereof to be given. In case of the neglect or refusal of the president to call a meeting on such request, such stockholders may call the same. Whenever under any of the provisions of this act a corporation is authorized to take any action after notice to its stockholders or after the lapse of a prescribed period of time, such action may be taken without notice and

without the lapse of any period of time if such action be authorized and such requirements be waived in writing by every stockholder of such corporation or by his attorney thereto authorized.

Sec. 24. Failure to hold meeting or elect officers. Whenever any corporation shall have failed to hold its annual meeting or to elect officers thereat, and no provision is contained in its charter, articles of association, certificate of incorporation, or by-laws, or is made by law, otherwise than is provided in this section for such contingency, the officers of such corporation shall hold office until others shall be chosen in their stead, and a special or annual meeting may be called by the persons whose duty it is to call the annual meeting, or, on the neglect or refusal of such persons, by not less than three of the members of a corporation having no capital stock, or by the holders of one-tenth of the capital stock of corporations having capital stock, by giving in writing such notice as is required in calling the annual meeting, and at such meeting the necessary officers may be elected, and the failure aforesaid shall not impair the rights of such corporation. Nothing in this section shall revive any corporation whose powers may have expired for any cause other than that hereinbefore named or any corporation which in fact shall have

abandoned and ceased to exercise its powers and franchises.

NOTE.

Even before the adoption of this statute it had been held in Connecticut that officers hold over until their successors are elected. See McCall vs. Byram Mfg. Co., 6 Conn. 427, 438; Spencer vs. Champion, 9 Conn. 536, 544; and see N. Y., B. & E. Ry. Co. vs. Motil, 81 Conn. 466 at 473.

Sec. 25. Stockholders' vote; proxies. At all stockholders' meetings stockholders may vote in person or by an attorney duly authorized by a written power. Every share of stock shall entitle the holder thereof to one vote except when otherwise provided in its charter or certificate of incorporation or in any statute affecting it, and persons holding stock in a fiduciary capacity and pledgors of stock shown to be such by the record of transfer shall have the same voting rights upon shares of stock so held as any holder of such shares would have, except that pledgors in the transfer of stock may expressly empower the pledgees to vote thereon. No proxy hereafter made shall be valid after the expiration of eleven months from the date of its execution unless a longer term be expressly provided for therein.

As amended June 21, 1905, Public Acts of 1905, Ch. 171.

NOTES.

The by-laws should provide what portion of the stock must be represented at a stockholders' meeting

to constitute a quorum. In the absence of such provision, or the absence of such provision by statute or by charter, such stockholders as are actually present may transact such business as may properly come before the meeting and a majority vote of the stock represented will be binding on the corporation.

An agreement to transfer the voting power of stock for five years was held invalid in the case of Shepaug Voting Trust Cases, 60 Conn. 553, decided by the Superior Court in 1890 and not taken to the Supreme Court.

Sec. 26. Receivership of corporation. Whenever any corporation having a capital stock has wilfully violated its charter or exceeded its powers, or whenever there has been any fraud, collusion, or gross mismanagement in the conduct or control of such corporation, or whenever its assets are in danger of waste through attachment, litigation, or otherwise, or such corporation has abandoned its business and has neglected to wind up its affairs and to distribute its assets within a reasonable time, or whenever its stockholders or directors have voted to discontinue its business, or whenever any good and sufficient reason exists for the dissolution of such corporation, any stockholder or stockholders owning not less than one-tenth of its capital stock or, in the case of a corporation not having capital stock, any member of such corporation may apply to the superior court in the county wherein such corporation is located, for the dissolution of such corporation and the appointment of a receiver to wind up its

affairs. Such court may, if it finds that sufficient cause exists, appoint one or more receivers to wind up the business of such corporation, and may at any time, for sufficient cause shown, make a decree dissolving such corporation and terminating its corporate existence. Whenever such decree of dissolution is passed, it shall be the duty of the receiver or receivers to cause a certified copy thereof to be filed in the office of the secretary of the state, and said secretary shall thereupon record such certified copy in a book kept by him for that purpose. Such court, in every case in which it appoints a receiver, shall by its order limit a time, which shall not be less than four months from the date of such order, within which all claims against such corporation shall be presented, and all claims not presented within such time shall be forever barred. When such receivership shall be terminated by the court, the receiver or receivers shall file with the secretary of the state a certificate similar to the final certificate required of directors in section 34 of this act, and said secretary shall thereupon record such certificate in a book kept by him for that purpose.

NOTES.

General Statutes Regarding Receivership, Rev. of 1902.

§ 1044. **Application for receiver; orders of judge.** *When any action shall be brought to, or pending in,*

any court of equitable jurisdiction, in which an application shall be made for the appointment of a receiver, either judge of such court or of the superior court, when such court is not actually in session, after due notice given, may make such order in the premises as the exigencies of the case may require, and may from time to time rescind and modify the same, and shall cause his proceedings to be certified to the court in which the action may be pending, at its next session, and shall be entitled to receive for the same the fees allowed by law for copies to clerks of courts.

§ 1045. **Receiver to give bond.** *All receivers, before assuming to act as such, shall file with the clerk of the court by which, or by a judge of which, they are appointed, a bond with such surety or sureties, and for such an amount, as such court or judge, may order and approve, payable to the state, and conditioned for the faithful performance of their official duties.*

§ 1046. **Authority of receiver.** *Receivers of a corporation, appointed by judicial authority, shall have the right to the possession of all its books, papers, and property, and power in their own names, or in its name, to commence and prosecute suits for and on behalf of said corporation; to defend all suits brought against it or them; to demand and receive all evidences of debt and property belonging to it, and to do and execute in its name, or in their names as such receivers, all other acts and things which shall be necessary or proper in the execution of their trust; and shall have all the powers for any of said purposes possessed by said corporation. They shall, under the order of the court, have the same power as the directors of such corporation to call in the subscriptions to its capital stock, in such proportions and at such times and places as they shall think necessary for the purpose of paying all the debts of said corporation and all the expenses of the receivership.*

§ 1047. **Receiver to file semiannual statements.** *Every such receiver shall, during the first week in April and in October in each year, sign, swear to, and file with the clerk of the court by which he was appointed, a full and detailed account of his doings as such receiver for the six months next preceding, together with a statement of all orders of court passed during said six months and the present condition and prospects of the estate in his charge, and cause a motion for a hearing and approval of the same to be placed on the short calendar.*

§ 1048. **Receiver of partnership when and how appointed.** *When any partnership shall be dissolved, and the partners cannot agree upon the disposition of the partnership effects and the settlement of the affairs of such partnership, either of them may apply to the superior court for the county in which either of said partners resides, or in which the property of such partnership is situated, and in case said court is not actually in session, then to any judge of the superior court, for the appointment of a receiver to hold the business and all of the estate, both real and personal, belonging to such partnership, and dispose of, manage, and apply the same as the said court or judge may direct. Upon receiving such application said court or judge shall forthwith appoint a day for the hearing upon the same, and shall make such order relative to notice of such application and of the hearing to the other partners, as may be deemed proper, provided the hearing shall be at least six days from the service of such order of notice; and such court or judge, upon said hearing, may appoint a receiver for said partnership, who shall be subject to the orders of said court.*

§ 1049. **Power of court over the partnership property.** *The said court, and in vacation any judge thereof, shall have the power to make such orders relative to the management or closing up of the business of such*

partnership, and to the sale, division, or other disposal of its real and personal estate, as may be necessary to protect the rights and interests of each partner and of the creditors of such partnership.

§ 1050. **Receiver entitled to control of partnership property.** *Upon the appointment of a receiver for a partnership, he shall be entitled to the immediate possession and control of all of its property, both real and personal, subject to the order of said court; but any such appointment, or any order of said court, may be modified or vacated on the application to said court of any party to such proceedings, reasonable notice of such application and of the time and place of the hearing thereon having first been given to every other party.*

§ 1051. **Receivership; wages to be preferred claims.** *Every debt due to any laborer or mechanic for personal wages, from any corporation or partnership for which a receiver shall be appointed, for any labor performed for such corporation or partnership within three months next preceding the service of the application for the appointment of a receiver, shall be paid in full by the receiver, to the amount of one hundred dollars, before the general liabilities of such corporation or partnership are paid.*

§ 1052. **Court may remove receiver at pleasure, and fill vacancy.** *Receivers may be removed at any time, at the pleasure of the court by which they were appointed, or, if such court is not actually in session, by a judge thereof; and if any receiver is removed, or declines to act, or dies, the court that appointed him, or, if such court is not actually in session, a judge thereof, may fill the vacancy.*

§ 1053. **Receivership; dissolution of attachment; costs.** *The commencement of proceedings for the appointment of a receiver of a corporation or a partnership shall dissolve all attachments, and all levies*

of executions not completed, made within sixty days next preceding, on the property of such corporation or partnership; but if the property is subsequently taken from the receiver, so that it cannot be made subject to the orders of the court in the settlement of the affairs of said corporation or partnership, or if the receivership shall be terminated by order of the court pending the settlement of the affairs of the corporation or partnership, said attachments and levies of execution shall revive, and the time from the commencement of such proceedings to the time when the receiver shall be dispossessed of the property, or the finding of the court that said property is not subject to the orders of said court, or when said trust shall be terminated, shall be excluded from the computation in determining the continuance of the lien created by such attachment; but the attaching or levying creditors shall be allowed the amount of their legal costs, accruing before the time of the appointment of a receiver, as a preferred claim against the estate of said corporation or partnership, if their respective claims upon which the attachments are founded shall, in whole or in part, be allowed.

Under Rules of Court, Practice Book, 1908, are the following provisions concerning Receivers.

10.

Receivers.

SEC. 50. All applications for the appointment of a receiver shall be made in a civil action. As ancillary thereto an application may be made, when the court before which such action is pending is not in actual session, to a judge in chambers for the appointment of a temporary receiver, and said judge may appoint such temporary receiver with or without notice to the parties in interest as he may deem advisable, and upon such appointment said judge shall fix a time

for a hearing upon the confirmation of such temporary receiver and the appointment of two appraisers, and cause not less than six days' notice thereof to be given all parties in interest by mail and otherwise, if deemed necessary, and upon such hearing he may appoint such two appraisers and confirm such temporary receiver, or make a new appointment of a temporary receiver. The appointment of such temporary receiver shall continue until the permanent receiver shall be appointed, or the further order of the court.

The temporary receiver shall cause said application to be duly assigned for trial in court at the earliest practicable day after the return day of the action for the appointment of a permanent receiver, and in cases where the day for such hearing has not been fixed before the opening of the session of the court to which said proceeding is returnable, the temporary receiver, on or before such opening, shall make and place upon the short calendar list an application therefor.

Judges shall certify all orders passed by them in chambers to the court in which the action may be pending.

SEC. 51. All appointments of receivers shall be temporary appointments, unless made by the court after the return day of the cause, and upon full notice and opportunity to be heard to all concerned. If made after the return day it shall be upon written motion addressed to the court. If made before the return day, the party desiring the appointment shall file a written application as is required where the appointment is by a judge in chambers. In either case the court making a temporary appointment shall forthwith make an order for a hearing upon the confirmation of such temporary appointment and the appointment of two appraisers, and direct the temporary receiver to give notice of such hearing and of the time and place thereof to all parties concerned by such public advertisement if it seem advisable, and

by causing a written or printed notice thereof to be mailed, postpaid, to all known creditors and to all stockholders of record of the corporation, if defendant be a corporation, at least six days before such hearing. At said hearing, if after the return day, the court may appoint a permanent receiver, who may be either the temporary receiver or a new appointee. If said hearing is before the return day, then such appointment shall be temporary only, and such temporary receiver shall cause the matter of his confirmation as permanent receiver or the appointment of some other person as permanent receiver to be brought before the court as provided in the case of temporary receivers appointed by a judge in chambers.

Cogswell vs. Second National Bank, 76 Conn. 257.

SEC. 52. The condition of bonds of temporary receivers shall be in substantially the following form:

"The condition of this obligation is such that, whereas, the above named A. B. has by been appointed, in an action brought by X against Y, to be temporary receiver of

"Now, therefore, if the said A. B. shall well and truly perform his duties under such appointment, and in the event that he shall hereafter, at any time or times, be confirmed or appointed in said action, either as temporary or permanent receiver of said , his duties as such receiver, then this obligation shall be void, otherwise in full force and effect."

State vs. Spittler et als., 79 Conn. 470.

SEC. 53. Receivers, upon their confirmation or permanent appointment, shall forthwith and without any order therefor prepare and file a sworn inventory of the assets of the estate, which inventory shall contain an appraisal of the items thereof, made by the appraisers appointed as aforesaid. Temporary

receivers, upon their original appointment, shall make an inventory, unless otherwise ordered.

SEC. 54. At the hearings provided for in §§ 50 and 51, or at some subsequent time, an order shall be made limiting a time for the presentation of claims against the estate and directing that the receiver forthwith give notice thereof, and that all claims not exhibited within said time will be barred, to all known creditors, by mailing to them a written or printed copy of such order; and the court may provide for further notice if it deem the same reasonable.

SEC. 55. The receiver shall within two weeks thereafter make a return of his compliance with such order, and within a like time after the expiration of the limitation file a list of claims presented, and make application for the order of the court thereon.

The court shall thereupon by its order allow or disallow in whole, or in part, the claims so returned, and order the receiver forthwith to give written notice to each claimant whose claim has been disallowed in whole or in part that unless such claimant shall within two weeks from the giving of such notice by the receiver bring an application to the court for the allowance of his said claim the same shall be barred; and any such application shall be speedily heard and the decision thereon shall, subject to appeal, be final.

Any creditor may intervene in said proceeding.

The court, for good cause shown, may extend the time for presenting a claim or claims to the receiver, and may extend the time for making application for the allowance of a claim or claims disallowed in whole or in part.

The court may, upon due notice to a claimant, hear his claim before allowing or disallowing the same and, subject to appeal, the decision thereon shall be final.

SEC. 56. No order for the continuance of a business shall, unless for special cause shown, be made for a greater period of time than four months. For cause

shown, such orders may be renewed from time to time, as the exigencies of the case may require.

SEC. 57. When a receiver is continuing business under the order of a judge or the court, he shall, during the first ten days of each month of such continuance, file an account showing the results of the business during the preceding month, and, if such account shows that the business has been run at a loss, cause such account to be brought to the attention of the court, or, if it is not in session, of said judge, or, if the latter cannot give it his attention, to that of the court when next in session.

SEC. 58. Every receiver shall, on the first Tuesdays of October and April of each year, file a summary statement of all orders made in said cause during the six months preceding, and the doings thereunder. The clerk shall hand said summaries to the judge holding the term or session then pending, or next thereafter, who shall, upon examination of the same, make such further orders in said cause as are deemed by him necessary, and may direct that the cause be placed on the short calendar, for an order approving the statement.

SEC. 59. Every receiver upon an estate which has been in process of settlement more than four months shall, on the first Tuesdays of October and April of each year, file with the court a full and detailed account of the condition and prospects of the estate, including therein, (a) a full list of all the assets on hand with the appraisal value and the present value as estimated by the receiver in parallel columns, (b) a particular statement of the disposition made of all assets since the last report, together with a statement in parallel columns of the appraisal value and the amount realized therefor, (c) a statement of all receipts with the present balance on hand and of all disbursements since the last semiannual report, together with the cash on hand, the places and terms

of deposit, and cause a motion for the approval of the same to be placed on the short calendar.

In all instances the reasons for delay in converting the assets into cash, and for failure to realize appraised values shall be given in said account.

SEC. 60. Whenever any judge in vacation has appointed a receiver, all applications for orders in said proceeding made out of court shall, except in the case of such judge's absence from the State, disability, or request in writing to the contrary, be made to him.

SEC. 61. The clerks shall see that these rules are enforced and promptly report any violations thereof to the court.

SEC. 62. The course of conduct prescribed by these rules may be altered or varied at any time by an order of the court or judge having jurisdiction of a receivership proceeding.

As to Receivership of Corporations having property upon which its members are dependent for support, it is provided by the Public Acts of 1905, Chap. 206, as follows:

"SECTION 1. *Whenever there shall be in any town an association, community, or corporation organized in whole or in part for the support of its members, and having property upon which its members, in whole or in part, are dependent for their support, if, in the opinion of the selectmen of said town, there be danger that such property be lost or expended in any manner so that some of such members shall become an expense to the town, said selectmen may bring an application, in the name of the town, to the superior court in the county in which said town is situated, for the appointment of a receiver of the property of said association, community, or corporation, and for other equitable relief; and said court shall have power, if it shall deem necessary and proper, to appoint a receiver of all the property of said association, community, or*

corporation, and vest all said property in such receiver, by decree or otherwise, to provide that said property shall be managed and used for the benefit and support of such members, in such manner as said court shall find to be best for the proper protection of such town and such members, and to grant such other relief as shall be necessary for that purpose and to protect the interests of said town and said members, according to the practice and proceedings of courts of equity.

"SEC. 2. *No application shall be brought under the preceding section of this act by the selectmen until the matter has been submitted to the town at a special meeting called for that purpose and until the town has approved of said application by vote at said meeting.*"

NOTES.

It is only under exceptional circumstances that the principal manager of an insolvent corporation can with propriety be appointed its receiver, and never when his personal interests may conflict with those of the creditors. In re Premier Cycle Co., 70 Conn. 473.

A receiver has no vested right of office but may be removed at any time by the court on due notice. From an order of removal he has no right of appeal either as receiver or in his personal capacity. In re Premier Cycle Co., 70 Conn. 473. He may, however, appeal in his personal capacity from an order which determines that after his discharge from office he will be personally responsible for obligations which he contracted officially. Hinckley vs. Gilman, 94 U. S. 467.

A nonresident must renounce inconsistent rights obtained in another jurisdiction after notice of a receivership in this state before proving his claim in receivership proceedings here, but he does not forfeit

his right to present a balance of his claim here by causing to be sold on execution personal property in another State attached before the receivership here. Ward et al. vs. The Connecticut Pipe Mfg. Co., 71 Conn. 345.

Gen. St., Rev. of 1902, § 1053, providing for dissolution of all attachments made within sixty days next preceding a receivership, does not apply to attachments made in another State. Ward et al. vs. The Connecticut Pipe Mfg. Co., 71 Conn. 345.

The mere fact that the business of a trading corporation has been run at a loss since its organization three or four years before does not necessarily, as matter of law, call for its dissolution and the appointment of a receiver, the court having a large measure of judicial discretion as to what is the best course, on the whole, to pursue. Ray vs. The Robert Price Coal Company et als., 80 Conn. 558.

Bankruptcy proceedings in the Federal Court do not prevent the dissolution of a corporation by a State court, and the State court can dissolve a corporation here though it also holds a franchise from other states, since the decree of dissolution here affects only the franchise conferred by this State. Hart vs. Boston, H. & E. R. R., 40 Conn. 524.

The appointment of a receiver under § 26 may constitute an act of bankruptcy under the Federal bankruptcy laws where the record and findings in the state court show that the appointment was in fact, though not in name, made "because of insolvency." In re Belfast Mesh Underwear Co., 153 Fed. 224.

Property in the hands of a receiver is so far under the direction and control of the court that the court may even direct the receiver what wages shall be paid to employees. Guarantee Trust and Safe Deposit Co. vs. P., R. & N. E. Railroad Co., 69 Conn. 709.

The appointment of a receiver does not *ipso facto* dissolve the corporation. The shares of stock may still be transferred freely, and the stockholders may meet and take any action not inconsistent with the

relations incident to the existence of the receivership. Butler, Receiver, vs. Beach, 82 Conn. 417.

A judgment dissolving a corporation upon proceedings instituted by certain of its stockholders is final as to all persons interested who have notice and an opportunity to appear and object; and therefore an appeal from such a judgment must be taken within the time prescribed by statute, and cannot be deferred until after the rendition of an order distributing the assets and discharging the receiver. Ensworth et als. vs. National Life Association, 81 Conn. 592.

Sec. 27. Sale of property and franchises. Said court may, in its discretion, in lieu of decreeing the dissolution of such corporation, order the receiver to sell its property and franchises; and the purchaser thereof shall succeed to all of the rights and privileges of such corporation, and may reorganize the same under the direction of said court. At any sale of such property at public auction, the court may, in its discretion, authorize the receiver to accept in payment duly allowed claims against such corporation, at a proper valuation.

Sec. 28. Appraisal and purchase of minority stock interest. Whenever a stockholder or stockholders holding not less than one-tenth of the whole amount of the capital stock of any corporation shall petition for its dissolution and the appointment of a receiver, pursuant to section 26 of this act, any other stockholder or stockholders may apply to said court for a

valuation of the stock held by the petitioner by an appraiser to be appointed by the court. Said court may, for sufficient cause shown, appoint one or more persons to appraise such stock, who shall forthwith hear the parties interested, determine the value of the petitioner's stock, and file the appraisal with the clerk of said court. Said clerk shall at once give written notice to the parties interested that such appraisal has been filed, and, within ten days after the giving of such notice, the applicant for an appraisal shall file with said clerk a writing stating whether he elects to buy the petitioner's stock at the appraisal, and, if he does elect to buy it, he shall at the same time deposit the amount of such appraisal in money, or certified check, with said clerk, who shall forthwith notify the petitioner of the filing of such election and of the deposit. If such deposit is made as provided herein, said petition for a dissolution of the corporation and the appointment of a receiver shall be dismissed upon motion of such depositor. Such deposit shall be paid over to the petitioner by the clerk, on receipt of the certificates of his stock duly indorsed for transfer, to be delivered to the depositor. If such certificates are not so indorsed and received within thirty days from the time of such deposit, the money or check shall be returned to the depositor. If the applicant for appraisal shall fail to make such deposit,

said action may proceed to final judgment. The expenses of the appraisal shall be taxed by the court, and shall be paid by the stockholders applying for such appraisal, if they fail to deposit the amount of the appraisal required as aforesaid, but otherwise shall be taxed against the corporation and added to the final costs in the case.

Sec. 29. Voluntary dissolution after commencing business. Whenever the directors of a corporation shall vote to terminate its corporate existence, they shall forthwith call a special meeting of the stockholders, to be held not less than thirty nor more than forty days from the date of such call. Such call shall contain a copy of such vote and shall be published once a week for four weeks next preceding such meeting, in a newspaper of this state having a circulation in the town where such corporation is located, and a copy thereof shall be sent by mail to the last known address of each stockholder. If, at such meeting of the stockholders, three-fourths in interest of each class of stock issued shall vote to confirm such vote of the directors, the directors shall proceed forthwith to wind up the affairs of such corporation. If every stockholder shall sign and acknowledge, before an officer authorized to take acknowledgments of deeds, an agreement among stockholders that the corporate existence of such corporation

shall be terminated, the vote of the directors and the confirming vote of the stockholders aforesaid may be dispensed with.

NOTE.

For voluntary dissolution of Corporations without capital stock, see Public Acts of 1907, Chap. 165, infra, page 132.

Sec. 30. Directors trustees to wind up business. The directors of a corporation whose existence is to be terminated pursuant to the vote or assent of its stockholders, as provided in section 29 of this act, shall be trustees to close up the business of such corporation. They shall forthwith prepare an inventory of its assets, make a list of its creditors with the amounts due to each, and collect its bills and accounts receivable. They shall, within two weeks after the date of the stockholders' vote of confirmation or agreement to dissolve the corporation, send a written notice of the proposed dissolution to every known creditor of such corporation warning him to present his claim and stating to whom and at what place such claim may be presented. They shall in such notice limit the time within which such claims shall be presented, which shall not be less than four months after the date of such stockholders' vote or agreement. They shall also publish, in some newspaper published in this state and having a circulation in the town where such corporation

is located, a copy of such notice. Within one year from the date of such stockholders' vote or agreement the trustees shall sell all of the property of such corporation except money and uncollected accounts in litigation, at private sale or public auction. As soon as practicable, the trustees shall pay, in full or *pro rata,* all claims against such corporation which have been allowed by them or which may be found to be due by any proper tribunal and shall distribute the balance of the assets, if any, among the stockholders of such corporation.

NOTE.

A provision in a general act for the organization of corporations that a corporation organized under it may authorize its own dissolution and the disposition of its property thereafter, does not authorize such a corporation continuing in existence to dispose of all its corporate franchises and powers by lease. Oregon Ry. & Nav. Co. vs. Oregonian Ry. Co., 130 U. S. 1.

Sec. 31. Application to the court. Such trustees may, in their discretion, bring their application to the superior court for the county within which such corporation is located, or to any judge of the superior court when such court is not in session, setting forth the facts of such proposed dissolution and praying the court, or such judge, to limit a period within which all claims against such corporation must be presented, and such court or judge may make

an order limiting the time within which claims must be presented, which shall not be less than four months from the date of such order. Such trustees shall proceed to wind up the affairs of the corporation, in accordance with the provisions of section 30 of this act, under the direction of the court in the same manner as if they were receivers. The court may, for cause shown, extend the period within which the trustees shall sell the property of the corporation.

NOTE.

The title which a trustee acquires to the property of a debtor, as well as his powers and duties in administering the estate are the same whether the assignment is voluntary or compulsory. Newtown Savings Bank vs. Lawrence et al., 71 Conn. 358. See also Bunnell, Trustee, vs. Bronson, Trustee, 78 Conn. 679; Wilson, Trustee, vs. Griswold, 79 Conn. 18.

Sec. 32. When claims shall be barred. All claims not presented within the time limit in accordance with the provisions of sections 30 and 31 of this act shall be barred and any claim so presented and disallowed by such trustees shall be barred unless the owner thereof shall commence an action to enforce the same within four months after such trustees shall have given him written notice of its rejection.

Sec. 33. Creditors not to interfere with control of property. No creditors shall, by attachment or by any process or proceeding, interfere with the custody, control, or disposition of the property of the corporation by its directors acting as trustees for the winding up of the corporate affairs under the provisions of this act. But any creditor, pending such winding up, may apply to the superior court in the county in which the corporation is located, or to a judge thereof when such court is not actually in session, for the appointment of a receiver of such property on the ground of fraud, mismanagement, or incompetency of such trustees, and such court or judge, upon finding that such trustees are incompetent or have been guilty of fraud or mismanagement in the discharge of their duties, shall appoint such receiver and the powers of such trustees shall thereupon terminate. But nothing herein contained shall prevent any person from establishing any claim against such corporation by an action at law, or shall prevent the foreclosure of any lien or mortgage existing at the time of such vote or assent to dissolve.

Sec. 34. Certificates concerning dissolution. Whenever the stockholders shall by vote or written assent agree to the dissolution of a corporation, a majority of the directors shall make, sign, and swear to and file in the office of the

secretary of the state a certificate that such stockholders' vote has been duly passed or such assent duly given, and stating the address to which all claims against such corporation may be sent, and such secretary shall thereupon record such certificate in a book kept by him for that purpose. When the directors have completed their duties as trustees as aforesaid, a majority of them shall make, sign, and swear to and file in the office of the secretary of the state a further certificate stating that the directors have completed their duties in winding up the affairs of such corporation and have sold or collected all of its assets and distributed the same, stating the manner of such distribution. The secretary shall examine the same, and, if he finds that it conforms to law, shall indorse thereon the word "Approved," with his name and official title, and shall thereupon record such certificate in a book kept by him for that purpose. When such certificate has been approved by the secretary, the existence of such corporation shall terminate.

NOTES.

Special Provision Relating to Dissolution of Old Corporation, Public Acts of 1905, Chap. 121.

"SECTION 1. *In all cases where any corporation, organized prior to August 1, 1901, had, before that date, voted to discontinue its business and distribute its capital stock among its stockholders, in accordance with the provisions of section 1943 of the general*

statutes, revision of 1888, and has heretofore applied to and obtained from the superior court in the county in which it is located, or a judge of said court in vacation, an order limiting a time not less than two months from the date of such order for the creditors of such corporation to present their claims against it to its directors, as in said statute provided, the directors of such corporation, or a majority of them, may make, sign and swear to, and file in the office of the secretary of the state a certificate stating that the directors have completed their duties in winding up the affairs of such corporation, have sold and collected all its assets, paid and satisfied all claims presented to them against said corporation, and distributed the assets remaining in their hands to and among the parties entitled to the same. The secretary of the state shall examine said certificate, and if he finds that it conforms to the provisions of this act shall indorse thereon the word 'Approved' with his name and official title, and shall thereupon record such certificate in a book kept by him for that purpose. When such certificate has been approved by the secretary of the state the existence of such corporation shall terminate.

"SEC. 2. *This act shall take effect from its passage.*"

Sec. 35. Certificate when corporate existence ends by limitation. When the existence of a corporation terminates by limitation, a majority of the directors shall make, sign, and swear to and file in the office of the secretary of the state a certificate setting forth the facts as to such termination and stating the manner in which its affairs are to be wound up and the name and address of the person to whom claims may be

presented by creditors of such corporation. The secretary shall thereupon record the same in a book kept by him for that purpose.

Sec. 36. Corporate existence to be continued for certain purposes. All corporations, whether they expire by their own limitation or are dissolved by voluntary action, by decree of court, or by act of the general assembly, shall continue so far as may be necessary to enable them to prosecute and defend suits by or against them, to close up their affairs, dispose of their property, and distribute their assets.

NOTES.

A court of equity, at the suit of creditors of an insolvent corporation whose existence is continued by statute for the purpose of collecting its debts and closing up its affairs, may by its decree direct an assessment for the benefit of creditors, which will bind stockholders not individually parties to the suit. Glenn vs. Liggett, 135 U. S. 533.

Though decrees of court have annulled the charter of a corporation and discharged the receiver, it is still within the power of the courts to revive it and thereby enable it to sue upon an obligation due and payable to it. Parsons vs. Utica Cement Mfg. Co., 82 Conn. 333.

Sec. 37. Annual Reports. The president and treasurer of every corporation having capital stock, except banks, trust companies, insurance and surety companies, railroad or street rail-

way companies, express companies, building and loan associations, and investment companies, shall, annually, on or before the fifteenth day of February or August, make, sign, and swear to and file in the office of the secretary of the state a certificate setting forth as of the first day of January or July immediately preceding: (1) The name, residence, and post office address of each of its officers and directors: (2) The amount of its outstanding capital stock which has not been paid for in full, with the amount due thereon: (3) The location of its principal office in this state, with the street and number, if any there be, and the name of the agent or person in charge thereof upon whom process against the corporation may be served. The secretary shall thereupon record such certificate in a book kept by him for that purpose, and shall furnish a certified copy of such certificate to the persons filing the same, who shall forthwith cause such certified copy to be recorded in the office of the town clerk of the town in which such corporation is located, and said town clerk shall record the same in a book kept by him for that purpose. On the fifteenth day of March and September the town clerks of the several towns shall report to the secretary of the state the names of all corporations whose annual returns have been filed for record during the preceding six months, in accordance with the provisions of this section, and the sec-

retary shall report to the attorney-general, every six months, the names of all corporations which have failed to comply with the provisions of this section, and the attorney-general shall collect all forfeitures due under this section. Every corporation whose officers shall fail to comply with the requirements of this section shall forfeit to the state one hundred dollars for each failure. Whenever a corporation shall be in the hands of a receiver, or a trustee in bankruptcy, or a trustee in insolvency, or whenever any foreign corporation which has appointed the secretary of the state its attorney has ceased to do business in this state and such fact is certified to and recorded by the secretary of the state, or whenever any domestic corporation has filed its first certificate of dissolution, no annual report shall be required of such corporation during the period aforesaid.

As amended July 15, 1909, Public Acts of 1909, Ch. 160.

NOTES.

When Secretary may sign Annual Report instead of President. By Public Acts of 1907, Chap. 27, it is provided as follows:

"Whenever, by reason of absence, disability, or a vacancy existing in the office, the president of any corporation is unable to make, sign, and swear to the annual report provided for in section thirty-seven of chapter 194 of the public acts of 1903, such report may be signed and sworn to by the secretary of such corporation instead of by the president thereof; pro-

vided, however, that the secretary and treasurer be not the same person.''

Failure to file Annual Report for two consecutive years is *prima facie* evidence of forfeiture. By Public Acts of 1909, Chap. 200, it is provided as follows:

''SECTION 1. *Every corporation required to file an annual report under the provisions of section thirty-seven of chapter 194 of the public acts of 1903 as amended by chapters 242 and 267 of the public acts of 1905 and chapter 27 of the public acts of 1907 which shall neglect to file such report for two consecutive years, and shall not pay to the state the forfeitures imposed for such neglect, shall prima facie be deemed to have forfeited its corporate rights and powers, and its corporate existence may be terminated in the manner hereinafter provided; but no property rights or rights of action in favor of or against such corporation, its officers or stockholders, and no rights and franchises which have lawfully passed from such corporation to any other corporation, person, or persons shall be affected or impaired by the provisions of this act; and said corporation shall continue in existence so far as may be necessary to enable it to prosecute and defend suits by or against it, close up its affairs, dispose of its property, and distribute its assets.*

''SEC. 2. *Whenever the default of any such corporation to make annual reports and pay said forfeitures shall have continued for two consecutive years, the secretary of the state shall notify said corporation by registered mail that, under the provisions of this act, its corporate rights and powers are prima facie forfeited, and unless said corporation shall pay to the state the forfeitures incurred by its defaults and, within three months from the mailing of said notice, file a report, as of the first day of January or July immediately preceding, made out and verified in all respects as the annual reports of corporations*

are required to be made out and verified, the secretary of the state shall record, in the records of corporations in his office, a certificate, by him signed, that the corporate rights and powers of the delinquent corporation have been forfeited by reason of its defaults, and its corporate existence shall thereupon cease and terminate except as provided in section one and except as hereinafter provided; and the secretary of the state shall immediately send to the delinquent corporation, by registered mail, a certified copy of said certificate of forfeiture.

"SEC. 3. *At any time within six months after the mailing of such certificate of forfeiture of corporate rights and powers, the secretary of the state may revoke said certificate of forfeiture and reinstate said corporation in the records of his office upon the payment to the state of all penalties and forfeitures incurred by such defaults and of a reinstatement fee of twenty-five dollars, and upon the filing in his office of the report provided for in the preceding section as of the first day of January or July immediately preceding; and thereupon said corporation shall be revested with and be empowered to exercise all its corporate rights and powers.*

"SEC. 4. *The provisions of this act shall not be held to apply to any cemetery association, or to any historical, library, literary, scientific, school, or social society, association, or company.*"

Remission of Forfeitures for Failure to file Annual Reports. By Public Acts of 1911, Chap. 147, it is provided:

"SECTION 1. *The attorney-general may, upon such terms as he may prescribe, remit, either wholly or in part, any forfeiture heretofore incurred and unpaid, or that may hereafter be incurred, by reason of the failure of any corporation to file an annual report under the provisions of section thirty-seven of chapter 194 of the public acts of 1903 and amendments*

thereof, when, in his opinion, it would be inequitable to enforce collection thereof.

"SEC. 2. *This act shall take effect from its passage.*"

Sec. 38. Annual returns by express companies; penalty. Every corporation doing business in this state as an express company shall, on the first day of January of each year, file in the office of the secretary of the state a statement of the amount of its capital stock, the amount actually paid thereon in cash, the time when said stock was issued, the amount of its real estate, the place where such real estate is located and its cost and present value, the amount of personal estate held by the company and its cash value, the amount of bills, notes, bonds, or other commercial security held by the company and their value, the amount of loans and discount of the funds of the company to its officers within the year last past, the amount of its capital stock purchased and sold by it or its officers and agents for its use, the amounts paid within the year last past for permanent betterments of its real estate and improvement of equipment of its business, the gross amount of its receipts and disbursements within said year, the amount of surplus cash on hand during each month of said year, the amount of dividends paid in the same time, and the amount of its assets and liabilities. Every such corporation

which shall fail to file such return for one month after said first day of January shall, for every month of such neglect thereafter, forfeit one thousand dollars to the state.

Sec. 39. Information for creditor. Every person having charge of the stock books of any corporation shall furnish information as to the number of shares held by any stockholder in such corporation to any applicant who shall furnish the person in charge of such books with an affidavit that the applicant is a creditor of such stockholder. Any person in charge of books as aforesaid refusing to give such information shall be fined not more than one hundred dollars.

Sec. 40. Investment companies; bond issue limited. Whenever the board of directors of any corporation organized for the purpose of lending money on real estate security, and issuing, negotiating, guaranteeing, and dealing in bonds and mortgage securities, shall vote that said corporation shall never issue and have outstanding at any one time bonds exceeding a certain amount specified in such vote, and said vote shall be ratified and approved by a vote of the stockholders of said corporation, a copy of such votes of the directors and stockholders, certified by the secretary and attested by the president and a majority of the directors may

be filed for record in the office of the secretary of the state, and thereafter said vote shall be a perpetual limitation upon the powers of such corporation.

Sec. 41. Supervision of investment companies; guaranty limited. Every corporation which has power to or does sell or negotiate its own choses in action, or sell, guarantee, or negotiate the choses in action of other persons or corporations as investments, shall be under the supervision of the commissioner on building and loan associations and subject in that particular to all the laws relating to the examination and report of banks, savings banks, and trust companies. Said commissioner, in his annual report, shall clearly describe the various classes of assets and liabilities of each, and state any special provision which has been made for the payment of such liabilities. No corporation doing business as aforesaid shall guarantee, by endorsement or otherwise, debenture bonds secured by loans upon real estate to an amount exceeding ten times the amount of the capital stock paid up in cash and the cash surplus of said corporation.

NOTE.

Chapter 293 of the Public Acts of 1911 prescribes the conditions which must be complied with before the stock of any mining or oil corporation incorporated in this or any other state, may be sold or offered for sale in Connecticut; and § 5 of this chapter

provides that no investment company shall do business in this state until it has been licensed by the Building and Loan Commissioner.

AN ACT CONCERNING THE SALE OF SECURITIES.

SECTION 1. *No shares or certificates of stock in any mining or oil corporation established under the laws of this or any other state, nor any such shares or certificates or other securities of any other such corporation not incorporated under the laws of this state or authorized to do business in this state, shall be sold or offered for sale in this state until such corporation has filed with the commissioner on building and loan associations a statement or certificate showing the financial condition of such corporation, the location of the mine or mines, or oil properties, or other plant or property owned by such corporation, with, in the case of a mining or oil corporation, plans of the same, the amount of work done thereon, the amount of cash expended for improvements thereon, and the condition of the plant and machinery connected therewith, nor until said commissioner has given permission in writing for such sale or offer. Such statement or certificate shall be subscribed and sworn to by the president, treasurer, and secretary of said corporation. The building and loan commissioner shall make such investigation of the affairs of said corporation as may be necessary to ascertain its condition and the value of its said securities, and on becoming satisfied, after such examination, that the sale of such securities should be permitted, may issue to said corporation a permit, in writing, authorizing the sale of the same in this state. For the filing of such statement or certificate and for such examination a fee of twenty-five dollars shall be paid to said commissioner, for the use of the state, whether or not permission is granted thereon as aforesaid. Such permit, if given, shall be valid for one*

Statement to be filed with commissioner on building and loan associations.

year from its date unless said commissioner shall, within said time, revoke the same for cause, and such permission may be renewed for a period of one year, in the discretion of the commissioner, upon payment of a fee of twenty-five dollars for each renewal.

SEC. 2. *Any person engaged in the business of selling or offering for sale any such shares, certificates of stock, or securities, a permit for the sale of which, as provided for in section one of this act, has not been given and in effect at the time of such sale or offer, shall be fined not more than one hundred dollars for each offense.*

Penalty.

SEC. 3. *The building and loan commissioner shall report to the attorney-general the names of all persons and corporations who, to his knowledge, are engaged in the sale of securities in violation of the provisions of this act, and the attorney-general shall cause prosecutions therefor to be instituted by the proper authorities.*

Building and Loan Commissioner to report to the attorney-general.

SEC. 4. *The foregoing provisions shall not apply to any corporation all of whose mines, plant, or property are situated within this state.*

Certain corporations excepted.

SEC. 5. *No investment company as defined by section forty-one of chapter 194 of the public acts of 1903 shall do business in this state until it has been licensed by the commissioner on building and loan associations in the manner provided by section 4009 of the general statutes regarding foreign building and loan associations, and violations of this provision shall be subject to the penalties provided by section forty-five of said chapter 194 of the public acts of 1903.*

Investment companies to be licensed.

SEC. 6. *Chapter 196 of the public acts of 1903 and chapter 232 of the public acts of 1911 are hereby repealed.*

Repeal.

Sec. 42. Collection of taxes on shares. When any corporation has power to impose a tax on its stock, it may appoint a collector thereof, who shall receive from its treasurer a rate bill, and a warrant signed by any justice of the peace, directing such collector to collect the sums specified in such rate bill; and on neglect of any stockholder to pay the tax due from him within the time limited by such corporation, the collector may levy such warrant on his shares, or such part thereof as may be necessary to satisfy such tax and costs, and shall proceed therein in the manner provided by law for the collection of executions when levied on the shares of the capital stock of a corporation; and the fees of such collector shall be the same as are allowed to officers on executions.

NOTES.

This section was originally enacted in 1824 and has been in force ever since. Whatever may be its exact meaning, it has never been construed by the courts.

Taxation by the State of Shares in Corporations is provided for by Public Acts of 1905, Chap. 54, as follows:

"Section 2331 of the general statutes as amended by chapter 204 of the public acts of 1903 is hereby amended by striking out in the sixteenth line of said section the words 'first day of February' and inserting in lieu thereof the words 'thirtieth day of September next prior thereto,' so that said section as amended shall read as follows: The secretary, treasurer, or cashier, of every bank,

Certain corporations to report and pay tax to state.

national banking association, trust, insurance, investment, and bridge company, whose stock is not exempt from taxation, shall, annually, in October, on or before the fifteenth day thereof, file in the office of the tax commissioner of this state a statement under oath, showing the number of shares of its capital stock and the market value thereof on the first day of October, the name and residence of each stockholder, and the number of shares owned by each on said last named date; and, on or before the last day of the following February, each of the corporations aforesaid shall pay to the treasurer of this state a tax of one per centum on the market value of each share of its stock, as such value may be determined under the provisions of section 2332, less the amount of taxes paid by such corporation upon its real estate in Connecticut during the year ending on the thirtieth day of September next prior thereto, all of which real estate shall be assessed and taxed in the town or other taxing district within which it is located.''

Taxation of property of corporations whose stock is not liable to taxation, is provided for by Gen. St., Rev. of 1902, as follows:

"§ 2328. **Property of corporation, how assessed.** *The whole property in this state of every corporation organized under the law of this state, whose stock is not liable to taxation, and which is not required to pay a direct tax to this state in lieu of other taxes, and whose property is not expressly exempt from taxation, and the whole property in this state of every corporation organized under the law of any other state or country, shall be set in its list and liable to taxation in the same manner as the property of individuals.''*

Under § 2328 cash on hand or on deposit in this state belonging to a foreign corporation is taxable, and the fact that such corporation is in the hands of ancillary receivers appointed by a court of this

state, and that the money is held for the purpose of paying creditors, is immaterial. Pope et als., Receivers, vs. The Town and City of Hartford, 82 Conn. 406.

"§ 2342. **Property of traders and manufacturers where listed.** *The property of any trading, mercantile, manufacturing, or mechanical business shall be assessed in the name of the owner or owners in the town, city, or borough where the business is carried on; and the list of any such owner or owners shall be given in by the person having charge of such business residing in the town, city, or borough, when the owner or owners do not reside therein. The average amount of goods kept on hand for sale during the year, or any portion of it when the business has not been carried on for a year, previous to the first day of October, shall be the rule of assessment and taxation; but merchants shall also be liable to be assessed for any amount due them from responsible persons, beyond their liabilities; and any merchant may have a deduction from his list of debts owing by him, in the same manner and to the same extent as in § 2349 provided. This section shall apply to the property of all persons, whether residents of this state or not, and to the property of all corporations whether domestic or foreign.*"

Public Acts of 1907, Chap. 74, § 5, provides as follows:

"SEC. 5. *In the town of New Haven, the property of any trading, mercantile, manufacturing, or mechanical business shall be assessed and valued in all respects as provided by section 2342 of the general statutes; provided, however, that the average amount of goods kept on hand for sale during the year, or any portion of the year when the business has not been carried on for a year previous to the first day of June, shall be the rule of assessment and taxation in said town.*"

§ 2342 has no bearing on the question of taxing cash on hand or in bank belonging to such corporation. Pope et als. vs. The Town and City of Hartford, 82 Conn. 406.

Returns to Tax Commissioners are provided for by Public Acts of 1909, Chap. 7, as follows:

"SECTION 1. *All statements, reports, or returns required to be filed with the tax commissioner for the purpose of taxation shall be open only to the inspection of the tax commissioner, his clerks and assistants, and such other officers of the state as have occasion to inspect them for the purpose of assessing and collecting taxes. The tax commissioner shall publish such reports as are required by law, and may also publish such other reports as will give information to the public regarding taxation.*

Limiting inspection of returns to tax commissioner to certain officers.

"SEC. 2. *This act shall take effect from its passage.*"

Real Estate to be set in list of town where it is situated. Public Acts of 1907, Chap. 184, provides as follows:

"*Section 2329 of the general statutes is hereby amended to read as follows: The real estate of any corporation mentioned in section 2328 shall be set in the list of the town in which such real estate is situated, and all of the personal estate of such corporation which is permanently located or stationed in any town shall be set in the list of the town in which said property is located, and all other personal property of such corporation shall be set in the list of the town in which such corporation has its principal place of business, or exercises its corporate powers; and when it shall have two or more establishments for transacting its business in different towns, school districts, or other municipal divisions,*

Corporate property, where listed. Stockholders exempt.

it shall be assessed and taxed for every such establishment, and for the personal property attached thereto, or connected therewith, and not permanently located in some other town, in the town, school district, or other municipal division having the power of taxation in which such establishment is; and the stockholders of any corporation, the whole property of which is assessed and taxed in its name, shall be exempt from assessment or taxation for their stock therein."

Taxing a corporation upon the market value of real estate owned by it, and taxing individual stockholders upon the market value of the shares owned by them, is not, strictly speaking, double taxation. It may or may not come within the equity of the rule that double taxation should be avoided. Bulkeley's Appeal, 77 Conn. 45.

Sec. 43. Alteration and repeal of charters. All acts creating or authorizing the organization of corporations or altering the charters of corporations, which have been or shall be passed by the general assembly, and all charters under which no corporation has been organized, shall be subject to alteration, amendment, and repeal at the pleasure of the general assembly, unless otherwise expressly provided in such acts; but no such amendment or repeal shall impair any remedy against any such corporation or against its officers, directors, or stockholders, for any liability which shall have been previously incurred; and all such amendments shall apply to every corporation except in so far as is otherwise expressly provided.

NOTES.

It is elementary that a charter is a contract within Art. 1, § 10, of the United States Constitution, forbidding any State to make any law impairing the obligation of contracts. Trustees of Dartmouth College vs. Woodward, 4 Wheat. (U. S.) 518.

Therefore, if no power to repeal the charter of a corporation is reserved by the state in granting it none can be exercised. Lothrop et al. vs. Stedman, 42 Conn. 583.

Since a charter is a contract, neither the directors nor a majority of the stockholders can bind a minority without the assent of the latter, in any matter which is not expressly or impliedly authorized by the charter. Byrne vs. Schuyler Electric Mfg. Co. et als., 65 Conn. 336.

But the grant from the state is always construed strictly against the grantees, and if the charter authorizes the corporation in sweeping terms to do certain things not necessary to the main object of the grant and not immediately within the contemplation of the parties, the power remains within the control of the legislature so long as it remains unexecuted and no rights have vested under it and may be treated as a license and revoked. Pearsall vs. Great Northern Railway, 161 U. S. 646.

The reserved power of amendment of the charter of a water company includes the right to make any alterations which do not substantially impair the object of the grant or affect vested rights; and the alterations may result from the operation of general laws, as well as from special legislation addressed to the corporation itself. Town of Southington vs. Southington Water Co., 80 Conn. 646.

Alterations in the charter of a corporation which make a material or fundamental change therein will not become operative unless accepted or assented to by all the stockholders. Those which make auxiliary or incidental changes only will become operative upon

acceptance by a majority. There is no exact formula for ascertaining what changes are fundamental and what incidental. Each case must be determined upon its own peculiar facts. Perkins vs. Coffin, 84 Conn. 275.

Sec. 44. Forms for certificates. The secretary of the state shall prepare forms for the several certificates and returns required by this act.

Sec. 45. Penalty for violation of this act. Every person who shall violate any of the provisions of this act, for which no penalty or punishment is expressly prescribed, shall be fined not more than one thousand dollars.

NOTES.

Gen. Stat., Rev. of 1902, "§ **1022. Enforcement of corporation laws.** *Any stockholder of a corporation may apply for a writ of mandamus against such corporation, to compel it to obey the statute laws of this state.*"

Since section 45 imposes a penalty, an action brought under it does not survive the death of an officer thus liable. Mitchell et als. vs. Hotchkiss, 48 Conn. 9.

Where a corporation is proceeding in contravention of its charter obligations, and refuses to fairly and fully perform a specific duty imposed on it either by its charter or a general statute, mandamus is the proper remedy to compel performance if there is no other specific remedy. State vs. Hartford & N. H. R. R. Co., 29 Conn. 538.

To justify the issue of a writ of mandamus to compel a private corporation to do a particular act, "it must appear that the act is in the nature of a corporate act specially commanded by law; and in general it will issue only at the instance of the public or of some person entitled to represent the public, including the individual in respect to whom the act commanded is to be done, or of some person who, though a stranger to the corporation and to the public interest, suffers an infraction of his private right at the hands of the corporation in doing the act forbidden or not doing the act commanded; and in this latter case the mandamus compelling performance of the corporate duty should be an effective remedy for the infraction of the private right, and must be the only full and adequate remedy for that infraction." State, ex. rel. Howard, vs. Hartford Street Railway Company, 76 Conn. 174 at 179.

See also American Asylum vs. Phœnix Bank, 4 Conn. 172; Lyon et als. vs. Rice et als., 41 Conn. 245; Peck vs. Booth et als., 42 Conn. 271; State vs. Towers, 71 Conn. 657.

The performance of a purely ministerial duty of an officer of a corporation may be enforced by mandamus, and stockholders may therefore resort to that remedy to compel the officers to call a meeting. Bassett et al. vs. Atwater, Pres., et al., 65 Conn. 355. But the remedy cannot be used "for the enforcement of merely private obligations such as those arising from contracts," Lahiff vs. St. Joseph's Total Abstinence and Benevolent Soc., 76 Conn. 648 at 651; and for this reason it cannot be used to compel the secretary of a private corporation to allow a stockholder to transfer his stock on the books and to issue a certificate, since the corporation may be held in an action for damages or a court of equity give relief if the purchaser is entitled to the specific stock. Tobey vs. Hakes, 54 Conn. 274.

PART II.

CORPORATIONS ORGANIZED UNDER SPECIAL CHARTER.

Sec. 46. Location not to be changed. No bank, savings bank, insurance company, or trust company shall change its location from one town to another except by an act of the general assembly.

NOTE.

For change in location of corporations formed under general laws, see §§ 73, 74, infra, pages 116, 117.

Sec. 47. Increase of capital stock. Every specially chartered corporation having power by law to increase its capital stock may from time to time so increase it by issuing additional shares of the same par value, under such limitations as to the amount issued and of every other nature whatsoever as may exist either in its charter or in any statute affecting it; provided, that, at a meeting of its stockholders warned and held for that purpose, such increase shall have been authorized by a vote of at least two-thirds of each class of stock issued and outstanding at the time of said vote, which vote shall state the amount of the increase so authorized; or provided, that, at a meeting of its stockholders held

As amended August 1, 1907, Public Acts of 1907, Chap. 246.

for that purpose, a written or printed notice of which stating the day, hour, place, and purpose thereof shall have been given by the president or secretary to each stockholder by leaving such notice with him or at his residence or usual place of business or by mailing such notice to him at his last known post office address at least thirty days before such meeting, such increase shall have been authorized by a vote of at least two-thirds of each class of stock represented at such meeting. Before any such corporation shall issue any shares of such increased capital stock so voted, a majority of the directors shall make, sign, and swear to and file in the office of the secretary of the state a certificate setting forth the number of shares so voted and the par value thereof. The secretary shall examine the same, and if he shall find that it conforms to law and that all taxes have been paid in accordance with the provisions of section 57, shall endorse thereon the word "Approved," with his name and official title, and shall thereupon record such certificate in a book kept by him for that purpose.

NOTES.

Capital stock may be increased under authority of this section by the declaration of a stock dividend. The Stamford Trust Company, Trustee, vs. The Yale & Towne Mfg. Co. et al., 83 Conn. 43.

If a corporation decides to increase its capital under its authority to do so the existing stockholders have

the option to subscribe for and hold the new stock in proportion to their interest in the old, and a stockholder who is denied the right may sustain an action against the corporation for the injury. Angell & Ames on Corporations, § 544.

Where stock is held in trust the right to subscribe for the new stock is capital, the profits on the sale of that right and the new shares taken belong to the fund and not part of the income. Brinley et al., Trustees, vs. Grou et al., 50 Conn. 66; Smith et al., Trustees, vs. Dana et al., 77 Conn. 543; Boardman et al. vs. Mansfield et al., Executors, 79 Conn. 634.

For certificate of increase of capital stock of domestic corporations organized under general laws, see §§ 73, 74, infra, pages 116, 117.

For certificate of increase or reduction of capital stock of foreign corporations, see § 86, infra, page 127.

Sec. 48. Stock preferred as to dividends. Any specially chartered corporation, not engaged either in a trust, insurance, or banking business or in trading in bonds, notes, or other evidences of indebtedness, which has by law power to increase its capital stock, may so increase it by the issue of preferred stock, which shall be entitled to dividends of an agreed amount before any dividends are declared upon the stock already issued; and such dividends, if not paid in any one year, may be paid out of the earnings of subsequent years, if it be so provided in the vote authorizing such increase.

Sec. 49. Stock preferred as to assets. Any specially chartered corporation, having power under section 48 of this act to issue stock pre-

ferred as to dividends, may also issue stock preferred as to assets, the holders of which shall, in case of the winding up of the corporation, be paid up to the full par value of such preferred stock, out of the net assets available for distribution to stockholders, before the holders of other stock receive anything; and, if the holders of a majority of the common stock shall so vote, the holders of such preferred stock may be given the right to exchange such preferred stock for common stock, on such terms and conditions as may be determined by said vote; but the total capital stock of the corporation shall not be increased by such exchange.

Sec. 50. Issue, how authorized. No issue of preferred stock shall be made unless authorized at a meeting of the stockholders warned and held for that purpose, by a vote of stockholders holding not less than two-thirds of the stock of such corporation, which vote shall determine the amount of preferred stock so to be issued, the number and value of the shares thereof, the dividends to be paid thereon, whether the same shall be cumulative or not, and the terms of the preferment as to assets, if such preferment is made.

Sec. 51. Certificate of increase. No certificate for such preferred stock shall be issued until a majority of the directors have made, signed,

and sworn to and filed in the office of the secretary of the state a certificate setting forth the increase of such capital stock, the number and value of such shares, the amount of the dividend to be paid thereon, whether the same is to be cumulative or not, and the terms of the preferment as to assets, if such preferment is made. The secretary shall thereupon record such certificate in a book kept by him for that purpose. The certificate required by this section shall be in addition to those required by law in relation to the increase of capital stock.

Sec. 52. Reduction of capital stock. Any specially chartered corporation may reduce its capital stock. No such reduction shall be valid unless approved by a vote of two-thirds of all outstanding stock of each class at a meeting of the stockholders warned and held for that purpose, nor unless a majority of the directors shall make, sign, and swear to and file in the office of the secretary of the state a certificate stating that the reduction has been duly approved by the stockholders and setting forth a copy of the vote of the stockholders, which vote shall show the details as to such reduction. The secretary shall record such certificate in a book kept by him for that purpose.

NOTES.

For reduction of stock of corporations organized under general laws, see § 74, infra, page 117.

For liability of stockholders voting for reduction of capital stock causing insolvency, see § 6, supra, page 23.

Sec. 53. Change of name by Superior Court. Any specially chartered corporation, having voted to change its corporate name, may apply to the superior court for the county in which it is located to have such change made, first giving notice of such intended application by advertisement for two weeks consecutively in a newspaper published in Hartford or New Haven and a newspaper, if there be one, published in the town in which the corporation is located; and said court may change said name as prayed for, and, upon filing for record in the office of the secretary of the state a certified copy of the order of the court, the name of such corporation shall be as decreed by said court; but no right existing at the time of such change in favor of or against such corporation shall be affected thereby. The secretary shall thereupon record such certified copy in a book kept by him for that purpose.

Sec. 54. Charter without organization void after two years. The charter of every specially chartered corporation, except as otherwise provided by law, shall be void, unless such corporation shall be organized and a certificate of such organization, sworn to by the president or secretary, or,

As amended July 6, 1905, Public Acts of 1905, Ch. 219.

if there be no such officers, by an officer having custody of the records of such corporation, shall be filed in the office of the secretary of the state within two years from the date of the approval of such charter. The secretary shall thereupon record such certificate in a book kept by him for that purpose.

Sec. 55. Acceptance and effect of charter amendment. When any amendment or alteration of the charter of any specially chartered corporation shall be made, if it be not otherwise specially provided in the resolution making such alteration or amendment, it shall not become operative unless, within six months after its passage, it shall be accepted at a meeting of such corporation warned and held for that purpose, nor unless, within said period, an attested copy of said acceptance shall be filed in the office of the secretary of the state, to be recorded by him in a book kept for that purpose; and such acceptance shall make the original charter and all resolutions amending and altering the same subject to amendment, alteration, and repeal, at the pleasure of the general assembly. If such amendment shall be made before the acceptance of the original charter, then such amendment may be accepted at the same time such original charter is accepted.

Sec. 56. Reports to general assembly. Corporations required to make reports to the

general assembly shall make them during the first week of each regular session.

Sec. 57. Tax on stock issue authorized by special act; penalty. Before any bill or resolution creating a corporation having a capital stock shall be approved or become a law, there shall be paid to the state treasurer, in addition to the fees required by section 10 of the general statutes, a franchise tax of one dollar on each one thousand dollars of the capital stock with which it is to be organized, but such tax shall in no case be less than fifty dollars. If such bill or resolution shall not be approved or become a law, the treasurer shall return the tax so paid. Whenever any specially chartered corporation shall vote to increase the amount of its capital stock in accordance with the provisions of this act or of any other general or special law affecting it, such corporation shall pay to the state treasurer before any shares of such increased capital stock shall be issued, a further tax of one dollar on each one thousand dollars of the total increased capital stock so voted, but no additional franchise tax shall be required upon stock upon which the corporation has paid the full franchise tax required by the law in force at the time of such payment. Every officer of any corporation subject to any of the provisions of this section, who shall sign or issue any certificate of stock on which the tax imposed by this sec-

tion has not been paid, shall be fined one thousand dollars, or imprisoned not more than two years, or both.

PART III.

THE CORPORATION ACT OF 1901.

Sec. 58. Application. The provisions of this part shall apply to all corporations formed under it and to all corporations heretofore organized under the joint stock law of this state or the corporation act of 1901, but shall not require the reorganization of corporations heretofore formed.

Sec. 59. Powers. Every corporation to which this part applies, in addition to all other powers granted by law, shall have power to mortgage its real and personal estate, including its franchises, and issue promissory notes, bonds, or other evidences of indebtedness. Such corporation may also issue one or more classes of stock.

NOTES.

Chap. 180 of the Public Acts of 1907, provides as follows:

"Section 1. Any provision of law regarding trust companies, whether contained in the general

statutes or in the charter of any trust company incorporated by this state, which authorizes or permits trust companies to issue, sell, or negotiate their own bonds or mortgage securities, or their own choses in action secured by mortgage of real estate which are to be issued, sold, or negotiated as investments, or which authorizes or permits trust companies to guarantee the bonds, mortgage securities, or other choses in action of other persons or corporations issued, sold, or negotiated as investments, or which authorizes or permits trust companies to engage in the business of marine, fire, or life insurance, or fidelity, surety, accident, health, liability, credit, title, or other form of casualty insurance, is hereby repealed; and to that extent this act shall be an amendment to the charter of every such trust company, and it shall not be necessary for such companies, or any of them, to accept said amendment.

Limitation on powers of trust companies.

"Sec. 2. This act shall not apply to any corporation actually engaged on the first day of January, 1907, in the business of a title insurance and guarantee company, in so far as the right of such company to continue such business of title insurance and guarantee is concerned."

Not applicable when.

Chap. 260 of the Public Acts of 1911, provides as follows: *"When any manufacturing or mechanical establishment, together with the machinery, engines, or implements situated and used therein, or any printing, publishing, or engraving establishment, together with the machinery, engines, implements, cases, types, cuts, or plates, situated and used therein, or any of the personal property above mentioned, without the real estate in which the same is situated or used, shall be mortgaged by a deed containing a condition of defeas-*

Mortgage upon machinery of manufacturing corporations to include after acquired machinery.

ance executed, acknowledged, and recorded as mortgages of land in accordance with the laws of this state, if such mortgage so recorded shall provide that any after-acquired property forming a part of the establishment and connected with or situated and used therein, or any after-acquired substituted machinery or personal property, of like nature to the property included in such mortgage, shall be covered by such mortgage, such mortgage shall be deemed valid and effectual as respects all such after-acquired or substituted property or machinery and the retention by the mortgagor of the possession of such property shall not impair the title of the mortgagee, and such mortgages may be foreclosed under and in accordance with the provisions of section 4132 of the general statutes.''

Chap. 197 of the Public Acts of 1911, provides as follows:

Private banking restricted.

''Section 1. No person or corporation, except a bank, trust company, or building and loan association incorporated under the laws of the United States or this state, shall cause to be published any advertisement or display any sign containing the word 'bank,' 'trust,' or 'savings,' or any artificial or corporate name, or any other word or words indicating that such person or corporation is a bank, trust company, savings bank, or building and loan association, or shall in any way solicit or receive deposits as a savings bank. Every person or corporation violating any provision of this act shall be fined not more than one thousand dollars. This act shall not, however, prohibit such firms or individuals, doing business as private bankers under their own name or names, as have deposited with the state treasurer a bond of ten thousand dollars secured either by a surety company of recognized standing or by an individual or individuals owning real estate within the state, or, at the option of such firms or individuals,

securities of the value of not less than said amount, to the acceptance of said treasurer, conditioned for the protection of their customers, from styling themselves bankers in the conduct of their said business.

"Sec. 2. All corporations, partnerships, or individuals engaged in the business of receiving money for safe-keeping or forwarding shall report to the bank commissioners that they are engaged in such business, and shall file with the state treasurer the bond or securities provided by section one of this act.

Corporations, partnerships or individuals, engaged in receiving money for safe-keeping to report to bank commissioners.

"Sec. 3. Section one of chapter 209 of the public acts of 1905 and chapter 86 of the public acts of 1907 are hereby repealed."

Repeal.

Condemnation of railroad company shares.

Gen. Stat., § 3694, authorizes any railroad company which has acquired more than three-fourths of the capital stock of any other railroad company to take the outstanding stock by condemnation proceedings, if necessary, and upon a judicial finding that such an acquisition will be for the public interest. It was held that this statute did not confer exclusive privileges upon any set of men in violation of the constitution of this State, that it did not deprive the stockholder of his property without due process of law, nor did it impair the obligation of a contract. New York, New Haven & Hartford R. R. Co. vs. Offield, 77 Conn. 417, affirmed 203 U. S. 372.

A national bank is not exempt from the operation of State laws, provided they do not impair its efficiency in performing those functions by which it was designed to serve the United States, nor trench upon the field occupied by the legislation of Congress. Cogswell vs. Second National Bank of Norwich, 76 Conn. 252.

Sec. 60. Certificates. Every certificate required by this part to be filed shall be signed and sworn to by the persons required to file it, and shall be filed in the office of the secretary of the state, who shall examine the same, and, if he shall find that it conforms to law and that all taxes which may be due upon the filing of the certificate under the provisions of section 61 of this act have been paid, shall endorse thereon the word "Approved," with his name and official title, and shall thereupon record such certificate in a book kept by him for that purpose. No act required to be set forth in any such certificate shall be valid until such certificate has been approved as aforesaid, but this provision shall not relieve the corporation, its officers, directors, or stockholders from any liability which might otherwise be enforcible against them or any of them, or invalidate any of the stock of such corporation in the hands of *bona fide* holders without notice. No such corporation shall commence business until a copy of the certificate required by section 63 hereof, duly certified by the secretary of the state, shall have been filed in the office of the town clerk of the town where the said corporation is to be located; and said town clerk shall record the same in a book kept by him for that purpose.

Sec. 61. Tax on capital stock. Every such corporation, before its certificate of incorpora-

tion shall be approved by the secretary of the state, shall pay to the state treasurer fifty cents on every one thousand dollars of its authorized capital stock up to five million dollars; and it shall pay ten cents upon every one thousand dollars of its authorized capital stock in excess of five million dollars. Whenever any corporation organized under the provisions of this part, or under any former joint stock law of this state, shall increase the amount of its authorized capital stock, it shall pay to the state treasurer, before the certificate of increase shall be approved, fifty cents on each one thousand dollars of such authorized increase until it has paid on a total capital stock of five million dollars; and, upon any authorized increase of capital stock above five million dollars, it shall pay to the state treasurer ten cents on each one thousand dollars; but no payment under the provisions of this section shall be less than twenty-five dollars. Said payments shall be in lieu of all other taxes upon the franchise of the corporation, but shall not be in lieu of any tax imposed by law upon the property of the corporation or upon the shares of its stock in the hands of its stockholders.

Sec. 62. Formation. Any three or more persons may associate to form a corporation under this act for the transaction of any lawful business. Such corporation shall not have power,

however, to transact in this state the business of a bank, savings bank, trust company, building and loan association, insurance company, surety or indemnity company, railroad or street railway company, telegraph or telephone company, gas, electric light, or water company, or of any company requiring the right to take and condemn lands or to occupy the public highways of this state, but shall have power to transact such business in any state or territory of the United States, or in any foreign country, if not prohibited by the laws of such state or territory or foreign country.

NOTES.

Chapter 245 of the Public Acts of 1907 provides for the formation of a telephone company under the provisions of the Corporation Act and to that extent repeals § 62 thereof.

CHAPTER 245.

AN ACT CONCERNING THE ORGANIZATION OF TELEPHONE COMPANIES.

SECTION 1. *Any three or more persons may associate themselves to form a joint stock corporation to do a telephone exchange business, and to build, maintain, and operate a telephone system, and may organize for that purpose under the provisions of chapter 194 of the public acts of 1903 as modified hereby, and any company organized under the provisions of this act shall have all the rights conferred and be subject to all the restrictions and*

Telephone company may organize under joint stock law.

obligations imposed by chapter 219 of the general statutes.

SEC. 2. *Any part of any act prohibiting the organization of joint stock corporations to do a telephone exchange business under the laws of this state, or requiring a special charter therefor, in so far as the same is inconsistent with the provisions of this Act, is hereby repealed.* Repeal.

Approved, July 31, 1907.

For definition of a private corporation see § 2, supra, pages 3, 4.

A state may grant a franchise of incorporation to a corporation of another state or to corporations chartered by different states, as fully as to natural persons who are citizens of the different states. Mackay vs. New York, New Haven & Hartford R. R. Co. et al., 82 Conn. 73.

Sec. 63. Certificate of incorporation. The persons so associated shall file a certificate setting forth: (1) The name of the corporation: (2) The name of the town in this state in which the corporation is to be located: (3) The nature of the business to be transacted or the purposes to be promoted or carried out: (4) The amount of authorized capital stock, which shall not be less than two thousand dollars, the number of shares into which the same is divided, and the par value of each share, which shall not be less than twenty-five dollars, and, if there be more than one class of stock, a description of the different classes with the terms on which they are

respectively created: (5) The amount of capital stock with which the corporation shall commence business, which shall not be less than one thousand dollars: (6) The period, if any, limited for the duration of the corporation.

NOTES.

The statement in a certificate of incorporation that all the shares of stock of the corporation have been paid for estops its signers from afterward asserting the contrary as against those who may become its creditors. Baldwin, Trustee, vs. Wolff, 82 Conn. 559.

DEFINITION OF PURPOSE.

The article in the certificate of incorporation stating the nature of the business to be transacted or the purposes for which the corporation is organized, should be drawn with accuracy and care and broadly enough so that no question may arise as to the scope of the corporation. This clause imparts vitality to the organization and endues it with the power which is essential to the accomplishment of the object for which it is created. The other articles in the certificate of incorporation, relating to name, location, authorized capital stock, amount of capital stock with which business is to commence, and the duration of the corporation, do not require any especial mention.

Sec. 64. Certificate may contain additional provisions. The certificate of incorporation may also contain any lawful provisions which the incorporators may choose to insert for the regulation of the business of the corporation or for defining and regulating the powers of the

corporation, its officers, directors, and stockholders or any class of stockholders.

See Butler, Rec'r, vs. Beach, 82 Conn. 417 at 421.

Sec. 65. Evidence of corporate existence. Upon the approval of the certificate of incorporation by the secretary of the state, corporate existence shall begin. A copy of such certificate and approval, duly certified by the secretary of the state under his hand and the seal of the state, shall be *prima facie* evidence of the legal existence of any such corporation.

Sec. 66. Power of incorporators. After the approval of the certificate of incorporation as aforesaid and until the directors are elected, the incorporators shall have charge of the affairs of the corporation, and may take such steps as are necessary or proper to obtain subscriptions to its stock.

Sec. 67. Call of first meeting; waiver. A majority of the incorporators shall call the first meeting of the corporation, at such time and place as they may designate, by a notice published twice, at least seven days before the time designated, in a newspaper in this state having a circulation in the town in which the corporation is located; but such notice may be waived by a writing signed by all the subscribers to the

capital stock and a majority of the incorporators, specifying the time and place for said meeting, which waiver shall be recorded at length upon the records of the corporation.

Sec. 68. Organization; adoption of by-laws. At such meeting, including adjournments thereof, the subscribers for stock who are present in person or by attorney shall perfect an organization by the choice of a temporary clerk and the election by ballot of three or more directors who are subscribers for stock, and shall adopt by-laws for the regulation of the affairs of the corporation. Such subscribers may also transact any other business; provided, that due notice thereof has been given in the call for such meeting or has been expressly waived.

Sec. 68b. Unless the certificate of organization required by section 69 is filed within two years after the filing of the certificate of incorporation, such certificate of incorporation shall be void. The provisions of this section shall apply to all certificates of incorporation, filed prior to the going into effect hereof, under which organization shall not have been perfected, and for the purpose hereof certificates of organization thereunder may be filed at any time within two years after this section shall go into effect.

NOTES.

The word "organize" as used in railroad and other charters ordinarily signifies the choice and qualification of all necessary officers for the transaction of business of the corporation. New Haven & Derby R. R. Co. vs. Chapman, 38 Conn. 56.

The stockholders of a joint stock company, organized under the corporation act of 1901 (which is in this respect substantially the same at the present time), have the power at a special meeting duly called for that purpose, to amend the by-laws so as to increase the number of directors and alter the date fixed for the annual meeting; and, having adopted such amendments, the stockholders may proceed at the same meeting to the election of the additional directors for a term of one year. The Gold Bluff Mining & Lumber Corporation vs. Whitlock et al., 75 Conn. 669.

BY-LAWS.

It is neither practical nor within the scope of this work to treat in any exhaustive manner the subject of the by-laws of a corporation. What follows is merely a brief *résumé* of the general principles governing the adoption of by-laws.

All by-laws must be reasonable; that is, they must not be oppressive or unequal, and if oppressive or unequal they are void. They must not interfere with the vested and substantial rights of the stockholders; and they must not be contrary to public policy or the established laws of the land.

A by-law which requires the consent of all the stockholders to a transfer of the stock of any member of the corporation would be void as against public policy. So a by-law is void as against third persons, which requires the approval of directors to a transfer of stock; or one which requires the approval of the president thereto.

A stockholder is chargeable with notice of the by-laws.

The same body in a corporation which has the power to make by-laws has the power to repeal them. But the directors' power to amend or repeal cannot be used to amend or repeal any by-law intended as a limitation of their powers.

The power to elect officers (usually conferred by the by-laws) implies the power to accept their resignation and to remove them for cause. The officer sought to be removed for cause is entitled to notice of the intention to remove him and the grounds, and is entitled to an opportunity to make a defense.

An extended discussion of the subject of by-laws is contained in Cook on Corporations, 6th Ed., Vol. 1, § 4 a, note, to which the reader is referred.

MEETINGS OF DIRECTORS.

If regular business only is to come before the meeting, no notice is required to be given, as directors are presumed to know when and where the meetings are to be held and what the general business of the corporation is. Notice must be given if any special business is to come before the regular meeting, and such notice should specify the special business and the time and place of holding the meeting.

Notice should also be given of any special meeting and of the business to come before it. Such notice should show that it is given by some one with authority to give it.

Business may be transacted without any previous notice when the directors, happening to be together, agree to hold a meeting at once for that purpose.

Sec. 69. Commencement of business; certificate of organization. No such corporation shall commence business until the amount of capital specified in its certificate of incorporation as the amount of capital with which it will

commence business has been paid in; nor until its directors and officers have been duly elected and its by-laws adopted; nor until a majority of its directors have caused to be filed a certificate of organization setting forth: (1) The amount of each class of stock subscribed for: (2) The amount paid thereon in cash: (3) The amount paid thereon in property other than cash: (4) The amount paid on each share of stock which is not paid for in full: (5) The name, residence, and address of each of the original subscribers, with the number and class of shares subscribed for by each: (6) That the directors and officers of the corporation have been duly elected and its by-laws adopted: (7) The name, residence, and post office address of each of the officers and directors: (8) The location of its principal office in this state, with the street and number, if any there be, and the name of the agent or person in charge thereof upon whom process against the corporation may be served. A copy of such certificate, duly approved by the secretary of the state and certified under his hand and the seal of the state, shall be *prima facie* evidence that such corporation has been duly organized and is duly authorized to exercise all of its corporate powers.

NOTES.

The state alone has the right to determine through its courts whether the conditions upon which a charter

was granted to a corporation have been complied with. New Orleans Debenture Co. vs. Louisiana, 180 U. S. 320.

After the certificate of organization is filed the burden is on the stockholder desiring to show that the organization is defective. Wood et als. vs. Wiley Construction Co., 56 Conn. 87.

The directors who sign the certificate are estopped to deny its recitals. Canfield, Trustee, vs. Gregory, 66 Conn. 9.

A corporation has power when fully organized to ratify a contract made by its promoters before its organization, when it is one within the purposes for which the corporation was organized and appears to be a reasonable means for carrying out those purposes. Ratification relates back to the execution of the contract, and renders it obligatory from the outset. Stanton et al. vs. N. Y. & E. R. R. Co. et als., 59 Conn. 272.

A corporation is in existence for some purposes before it can commence business. Canfield, Trustee, vs. Gregory, 66 Conn. 9 at 23.

A corporation may be so defectively and illegally organized and conducted as to become a partnership. But to make a stockholder liable as a partner, his participation in the wrongdoing must be shown. The mere holding of a certificate of stock is not enough. Stafford Bank vs. Palmer et als., 47 Conn. 443.

If individuals who subscribe in form for shares do not complete what they in good faith attempted, namely, the creation of a corporation, they remain unincorporated persons associated in business. New Haven Wire Co. Cases, 57 Conn. 352, 394.

The agreement of a contractor to take stock in the company as payment for work done, is not a subscription which can be included in the amount which must be subscribed before organization can be commenced. N. Y., Hous. & N. R. R. Co. vs. Hunt, 39 Conn. 75.

A *de facto* corporation can incur liabilities which

do not bind its organizers in their individual capacities, and from which it cannot escape by the appointment of a receiver. Lamkin vs. Baldwin & Lamkin Co., 72 Conn. 57.

A company, after incorporation, upon discovery of fraud practised on it by its promoters, may sue and recover from them the secret profits obtained in the transaction, though no offer of rescission is made by the company, and notwithstanding the property purchased is worth as much or more than was paid for it. Yale Gas Stove Co. vs. Wilcox, 64 Conn. 101. See also Stamford Trust Co. vs. Yale & Towne Mfg. Co., 83 Conn. 48.

A defect in the organization of a corporation does not prevent it from being a corporation *de facto*, nor disqualify it from acquiring, holding and conveying real estate. New York, Bridgeport & Eastern R. R. Co. vs. Motil, 81 Conn. 466.

Sec. 70. Officers. The directors of every corporation shall choose from among their number a president and shall appoint a treasurer, a secretary, and such other officers as the by-laws shall prescribe. The same person may fill the offices of president and treasurer or of secretary and treasurer.

Sec. 71. Issue of additional stock. Every corporation may, at any meeting warned and held for that purpose, empower its directors to issue shares of its unissued authorized capital stock. At the time for the filing of its next annual report after the issue of any such shares, a majority of the directors shall make and file a certificate setting forth the facts relating to

such issue similar to the facts relating to the original issue of stock required by subdivisions (1) to (5), inclusive, of section 69 of this act.

Sec. 72. Surrender of rights before beginning business. At any time before the payment of any part of the subscriptions to capital stock and before the commencement of business, the incorporators, and the subscribers for stock, if any, may surrender the corporate rights and franchises of any corporation by filing a certificate that no part of such subscription has been paid, that such business has not been commenced, that no debts have been incurred which are unpaid, and that they surrender all rights and franchises of such corporation. When such certificate has been examined and approved by the secretary of the state, the existence of such corporation shall terminate.

Sec. 73. Amendment of certificate of incorporation before commencing business. At any time before the filing of the certificate of organization the incorporators of any corporation may make such amendments, changes, and alterations in its certificate of incorporation as may be desired; provided, that the subject-matter of such changes could have been lawfully inserted in an original certificate of incorporation. No change, alteration, or amendment shall be valid, unless approved in writing by all

of the subscribers, if any, to the capital stock of such corporation, nor unless a certificate, setting forth such amendments, changes, or alterations and stating that the same has been duly approved by the subscribers, if any, shall be made and filed by all of the incorporators.

Sec. 74. Changes in certificates of incorporation. Every corporation may change its name, the nature of its business, and its location; may increase or reduce the amount of its authorized capital stock; may create one or more classes of stock; and may make such other amendments, changes, and alterations in its certificate of incorporation as may be desired; provided, that the subject-matter of such changes, amendments, and alterations could have been lawfully inserted in an original certificate of incorporation. No such change, alteration, or amendment shall be valid unless approved by a vote of two-thirds of all of the outstanding stock of each class at a meeting of the stockholders duly called to consider such amendment, change, or alteration, nor unless a certificate, setting forth such amendments, changes, or alterations and stating that the same have been duly adopted by the stockholders, shall be made and filed by a majority of the directors.

Sec. 75. Similar corporations may consolidate. Any two or more corporations which are

carrying on business of the same or a similar nature may merge or consolidate into a single corporation.

Sec. 76. Directors' agreement as to terms of consolidation. The directors of the several corporations proposing to merge or consolidate may enter into an agreement, signed by them and under the corporate seals of the respective corporations, prescribing the terms and conditions of such proposed consolidation and stating the name of the consolidated corporation, the number, names, and places of residence of its first directors, the number of shares of its capital stock and the classes thereof and the amount or par value of each share thereof, and the manner of converting the shares of capital stock of each of the old corporations into shares of the capital stock of the consolidated corporation, together with such other provisions as are required to be set forth in an original certificate of incorporation and any other provisions necessary to carry such proposed consolidation into effect.

Sec. 77. Stockholders to vote upon consolidation. Such agreement shall be submitted to the stockholders of each of such merging or consolidating corporations, separately, at a meeting thereof to be called for the purpose of considering the same, and twenty days' notice of the

time, place, and object of such meeting shall be mailed to the last known post office address of each of such stockholders, and such notice shall be published once in each week for three successive weeks in one or more newspapers of this state having a circulation in the towns in which such corporations are respectively located. At such stockholders' meetings, if two-thirds of all the outstanding stock of each class shall vote to approve such merger or consolidation, the facts shall be certified upon such agreement by the secretaries of the respective corporations under the seals thereof, and such agreement so adopted and certified shall be filed in the office of the secretary of the state, who shall, if the same conforms to the provisions of this chapter, indorse the same "Approved," with his name and official title; and a copy of such agreement, certificate, and approval, duly certified by the secretary of the state under his hand and the seal of the state, shall be *prima facie* evidence of the facts set forth in such agreement and certificate and of the legal existence and organization of such consolidated corporation and that it is duly authorized to exercise all of its corporate powers.

Sec. 78. Rights, duties, and liabilities of consolidated corporations. Upon the completion of such consolidation, the several corporations shall become a corporation by the name pro-

vided in such agreement, and shall possess all the rights, privileges, powers, and franchises of each of the consolidating corporations; and all property, real, personal, and mixed, and all debts due to them on whatever account, shall be vested in the consolidated corporation; and all rights of creditors and all liens upon the property of either of such consolidating corporations shall be preserved unimpaired, and the respective corporations shall continue in existence so far as may be necessary to preserve the same; and all debts, liabilities, and duties of either of such consolidating corporations shall thenceforth attach to the consolidated corporation, and may be enforced against it to the same extent as if they had been incurred or contracted by it. An amount of the stock of the consolidated corporation equivalent to the amount of the stock of the merged corporations on which a franchise tax has been paid shall be exempt from taxation under section 61 of this act.

NOTE.

A corporation which has transferred all its assets to another, upon the agreement of the second to pay the debts of the first, can proceed in equity to compel the performance of the agreement; and that right constitutes an asset which its creditors can pursue in equity. If the corporation has been improperly dissolved, the re-opening of the judgment of dissolution, so that the company or its receiver may enforce the agreement for the benefit of its creditors, is an appro-

priate remedy. Sullivan County Railroad Co. vs. Connecticut River Lumber Co. et al., 76 Conn. 464.

Sec. 79. Remedy of aggrieved stockholder. Any stockholder in any corporation consolidating as aforesaid who, at the time of such consolidation, objected thereto in writing, may, within ten days after the agreement of consolidation has been filed for record in the office of the secretary of the state, demand in writing from the consolidated corporation payment for his stock; and such corporation shall, within three months thereafter, pay him the value of his stock at the date of such consolidation. In case of disagreement as to the value thereof, such value shall be ascertained by three disinterested persons to be chosen, one by the stockholder, one by the directors of the consolidated corporation, and the third by the two thus selected, and, in case their award is not paid within sixty days from its date, it shall become a debt of such consolidated corporation and may be collected as such. On receiving payment of the amount awarded, such stockholder shall transfer his stock to the consolidated corporation, which shall dispose of it on the best terms obtainable.

PART IV.

FOREIGN CORPORATIONS.

Sec. 80. Meaning of "foreign corporation." Unless otherwise expressly provided, the term "foreign corporation" shall mean every corporation not organized under the laws of this state.

Sec. 81. Powers and limitations. Any foreign corporation may purchase, hold, mortgage, lease, sell, and convey real and personal estate in this state for its lawful uses and purposes, and such real estate and other property as it may acquire, by way of foreclosure or otherwise, in payment of debts due such corporation; but no foreign corporation belonging to any of the classes excepted in section 62 of this act shall engage in or continue, in this state, the business authorized by its charter or the laws of the state under which it was organized, unless empowered so to do by some general or special law of this state, except for the purpose of carrying out and renewing existing contracts heretofore made.

NOTES.

For general powers of domestic corporations see § 3, supra, pages 4, 5.

For powers of domestic corporations organized under Corporation Act of 1901, see § 59, supra, page 100.

For powers of Connecticut corporations to transact business outside the state, see § 4, supra, page 18.

Power of corporations to act as Executors or Trustees under Wills in this State. By Public Acts of 1903, Chap. 131, it is provided as follows:

"*Section 1. Any foreign corporation authorized by its charter to act as executor or trustee in the State where it is chartered, and named as executor or trustee in the will of any resident of this state, may qualify and act as such executor or testamentary trustee in this state.*

What foreign corporation may act as executor.

"*Sec. 2. No such corporation shall act in such capacity until it shall have appointed in writing the secretary of the state and his successors in office to be its attorney, upon whom all process in any action or proceeding against it may be served; and in such writing such corporation shall agree that any process against it which is served on such secretary shall be of the same legal force and validity as if served on the said corporation, and that such appointment shall continue so long as any liability remains outstanding against the corporation in this state.*

To appoint secretary of the state, attorney.

"*Sec. 3. The court of probate having jurisdiction may, in the discretion of said court, require said corporation to give bond for the performance of such trust, unless otherwise provided in such will.*

Court of probate may require bond.

"*Sec. 4. This act shall take effect from its passage, and shall apply to all wills and codicils which have been or shall hereafter be executed.*"

To what wills to apply.

A state may in general impose such conditions as it pleases upon the right of a corporation chartered by another state to do business within the borders of

the former, Paul vs. Virginia, 8 Wall. (U. S.) 168; or to become one of the elements of a consolidated corporation organized under the laws of the former, Ashley vs. Ryan, 153 U. S. 436; since a corporation is not a "citizen" within the provision of the XIVth Amendment declaring that the citizens of each state shall be entitled to all privileges and immunities of citizens in the several states. Orient Insurance Co. vs. Daggs, 172 U. S. 557; Pembina Mining Co. vs. Pennsylvania, 125 U. S. 181. But conditions cannot be placed upon the doing of a business which is strictly interstate or foreign commerce, Pembina Mining Co. vs. Pennsylvania, supra, and particularly the right to carry on such interstate or foreign commerce within the state cannot be conditioned upon an agreement not to remove a suit against it from the state to the Federal courts, So. Pac. Co. vs. Denton, 146 U. S. 207; and the power of a State to impose conditions upon foreign corporations, however, cannot be exercised to discharge citizens of that state from their contract obligations to such corporations. Bedford vs. Eastern Bldg. & Loan Assn., 181 U. S. 227.

The power of a State over foreign corporations is not less in any respect than over its own except as it is limited by the United States Constitution and by its inability to amend the charters of such foreign corporations. See N. Y. Life Insurance Co. vs. Cravens, 178 U. S. 389. The mere doing of one act of business within a state by a foreign corporation, however, with no purpose of doing other acts there, does not bring the corporation within a statute forbidding foreign corporations to do business without filing certain certificates, so as to constitute such failure a defense to a suit brought by such corporation on a single contract thus made. Cooper Mfg. Co. vs. Ferguson, 113 U. S. 727.

In general the rights and liabilities of stockholders as between themselves and the corporation and creditors of the corporation are determined by the laws of the state of incorporation. See Lewisohn et al. vs.

Stoddard et als., 78 Conn. 575; Converse, Receiver, vs. Ætna Nat. Bank, 79 Conn. 163, affirmed 212 U. S. 567.

Sec. 82. Charter or certificate of incorporation to be filed. Every foreign corporation, except insurance and surety companies, building and loan associations, and investment companies within the provisions of section 41 of this act, shall, before transacting business in this state, file in the office of the secretary of the state a certified copy of its charter or certificate of incorporation, together with a statement, signed and sworn to by its president, treasurer, and a majority of its directors, showing the amount of its authorized capital stock and the amount thereof which has been paid in, and, if any part of such payment has been made otherwise than in cash, such statement shall set forth the particulars thereof.

Charter or certificate of incorporation to be filed.

As amended May 1, 1907, Public Acts of 1907, Ch. 60.

Sec. 83. Secretary of the state to be resident attorney. Every foreign corporation with an office or place of business in this state, except insurance companies, surety companies, and building and loan associations, shall, before doing business in this state, appoint in writing the secretary of the state and his successors in office to be its attorney, upon whom all process in any action or proceeding against it may be served; and in such writing such corporation

shall agree that any process against it which is served on such secretary shall be of the same legal force and validity as if served on the corporation, and that such appointment shall continue in force as long as any liability remains outstanding against the corporation in this state. Such written appointment shall be acknowledged before some officer authorized to take acknowledgments of deeds and shall be filed in the office of said secretary, and copies certified by him shall be sufficient evidence of such appointment and agreement. Service upon said attorney shall be sufficient service upon the principal, and may be made by leaving a duly attested copy of the process with the secretary of the state or at his office.

Sec. 84. Duty of secretary when served with process; fee; record. When legal process against any corporation mentioned in section 83 of this act is served upon the secretary of the state, he shall immediately notify the corporation thereof by mail, and shall, within two days after such service, forward in the same manner a copy of the process served upon him to such corporation, or to any person designated by such corporation in writing. The plaintiff in the process so served shall pay said secretary at the time of such service a fee of twenty-five cents for each page of process, said fee in no case to be less than two dollars, which shall be

recovered by him as part of his taxable costs if he shall prevail in the suit. Said secretary shall keep a record of all process served upon him, which shall show the day and hour when such service was made.

Sec. 85. Failure to file certificates and appoint attorney; penalty. Every officer of a foreign corporation transacting business in this state which fails to comply with the requirements of sections 82 and 83 of this act, and every person who transacts business in this state as the agent of such delinquent corporation, shall be fined not more than one thousand dollars; but such failure shall not affect the validity of any contract by or with such corporation. The secretary of the state shall report such failure to the attorney-general, who shall thereupon institute proceedings against such corporation to restrain its further prosecution of business in this state.

Sec. 86. Certificate of increase or reduction of capital to be filed. Every foreign corporation doing business in this state shall, within thirty days after an increase or reduction of its capital stock, file in the office of the secretary of the state a certificate thereof, substantially like that required of domestic corporations organized under the corporation act of 1901 under like conditions.

NOTES.

For certificate of increase of capital stock of specially chartered domestic corporations see § 47, supra, pages 92, 93.

For certificate of increase of capital stock of domestic corporations organized under general laws see §§ 73, 74, supra, pages 116, 117.

Sec. 87. Annual Reports. The president and treasurer of every foreign corporation doing business in this state, which is not required by law to make other annual returns in this state, shall, annually, on or before the fifteenth day of February or August, make, sign, and swear to and file in the office of the secretary of the state a certificate similar to the certificate required by section 37 of this act, except that such certificate need not give the name of the agent or person in charge of its principal office upon whom process against the corporation may be served. The secretary shall thereupon record such certificate in a book kept by him for that purpose and shall furnish a certified copy of such certificate to the persons filing the same, who shall forthwith cause such certified copy to be recorded in the office of the town clerk of the town in this state in which such corporation has its principal office or place of business, and said town clerk shall record the same in a book kept by him for that purpose. On the fifteenth day of March and September the town clerks of the several towns shall report to the secretary of

the state the names of all corporations whose annual reports have been filed for record during the preceding six months, in accordance with the provisions of this section, and the secretary shall report to the attorney-general every six months the names of all corporations which have failed to comply with the provisions of this section, and the attorney-general shall collect all forfeitures due under this section. Every corporation whose officers shall fail to comply with the requirements of this section shall forfeit to the state one hundred dollars for each failure.

NOTE.

For annual reports of domestic corporations having capital stock, see § 37, supra, page 74. (And see notes under said section.)

Sec. 88. What penalties apply to foreign corporations. All penalties and liabilities which are imposed by the laws of this state upon officers, directors, and stockholders of domestic corporations for false and fraudulent statements and returns, shall apply to the officers, directors, and stockholders of foreign corporations doing business in this state.

NOTE.

Dissolution. A corporation can be dissolved only by the state which created it. Lewisohn et al. vs. Stoddard et als., 78 Conn. 575.

PART V.

CORPORATIONS WITHOUT CAPITAL STOCK.

Sec. 89. Organization. Any three or more persons may associate to form a corporation without capital stock, to promote or carry out any lawful purpose, other than that of a mercantile or manufacturing business, by signing and acknowledging before any officer authorized to take acknowledgments of deeds and filing in the office of the secretary of the state a certificate stating: (1) That they do so associate: (2) The purpose or object of the corporation: (3) The town in this state in which the corporation is to be located. The persons so associating may also include in said certificate any other lawful provisions for the regulation of the affairs of the corporation and the definition of its powers and the powers of its officers, directors, and incorporators. Such certificate shall be examined by the secretary of the state, and, if he shall find that it conforms to law and that the fee required by section 4814 of the general statutes to be paid at the filing of such certificate has been paid, he shall endorse thereon the word "Approved," with his name and official title, and shall thereupon cause the same to be recorded in his office.

Organization of corporations without capital stock.

As amended May 16, 1911, Public Acts of 1911, Ch. 56.

He shall then prepare a certified copy of such certificate and of his approval and deliver the same to one of the persons so associated, who shall forthwith cause such copy to be recorded in the office of the town clerk in the town where such corporation is to be located. When such certificate has been duly approved and recorded, the persons so associated, with such others as may be associated with them or become their successors in such manner as the by-laws of the corporation provide, shall be and become a body politic and corporate and shall have all the powers conferred upon corporations by section 3 of this act, and shall have the same power to mortgage its real and personal estate and to issue promissory notes or other evidences of indebtedness as have corporations having capital stock and organized under the general laws of this state, and may receive property by devise or bequest and hold the same, so far as such property may be necessary or proper to enable such corporation to carry out its purposes. A copy of the certificate filed in the office of the secretary of the state and of his approval, duly certified under his hand and the seal of the state, shall be *prima facie* evidence of the facts therein set forth and of the legal existence of such corporation and of its authority to exercise its corporate powers. Such corporation may at any time amend its original certifi-

Power granted to mortgage real and personal estate, and to issue notes and evidences of indebtedness.

cate of incorporation by a three-fourths vote of its incorporators, their associates, and successors, at a meeting of the corporation duly called to consider such amendment, and by causing a certificate, duly attested by its president and secretary, and setting forth the fact that such vote has been passed and stating the subject-matter of such amendment, to be filed, approved, and recorded in the same manner as the original certificate of incorporation.

This act shall take effect from its passage.

NOTES.

The Dissolution of Corporations without Capital Stock is provided for by Public Acts of 1907, Chap. 165, as follows:

"Section 1. Whenever the board of management of any corporation without capital stock, corresponding in its official relation to such corporation with the board of directors of a corporation having capital stock, shall vote to terminate its corporate existence, said board of management shall forthwith call a special meeting of the members of such corporation, to be held not less than thirty nor more than forty days from the date of such call. The call for said meeting shall contain a copy of said vote, and shall be published once a week for four weeks next preceding such meeting in a newspaper published in this state and having a circulation in the town in which such corporation is located, and a copy of said call shall be sent by mail to the last known address of each member of the corporation. If, at such meeting of the corporation, three-fourths in number of the members of said corporation present and voting

Voluntary dissolution of corporation.

at such meeting shall vote to confirm said vote of the board of management, said board of management shall proceed forthwith to wind up the affairs of the corporation; provided, that, if every member shall sign and acknowledge, before an officer authorized to take acknowledgments of deeds, an agreement among the members that the corporate existence of such corporation shall be terminated, such vote of the board of management and confirming vote of the members may be dispensed with.

"Sec. 2. The board of management of any such corporation, the existence of which is to be terminated pursuant to the vote or agreement of its members as hereinbefore provided, shall be trustees to close up the business of said corporation. They shall forthwith prepare an inventory of its assets, make a list of its creditors, with the amounts due to each, and collect its bills and accounts receivable. They shall, within two weeks after the date of the members' vote of confirmation or agreement to dissolve the corporation, send a written notice of the proposed dissolution to every known creditor of such corporation warning him to present his claim, and stating to whom and at what place such claim may be presented, and shall, in such notice, limit the time, not less than four months after the date of such notice, within which such claim shall be presented; they shall also publish, in some newspaper published in this state and having a circulation in the town in which such corporation is located, a copy of such notice. Within one year from the date of said members' vote or agreement said trustees shall sell all of the property of such corporation, except money and uncollected accounts in litigation, at private sale or public auction, and, as soon as practicable, said trustees shall pay, in full or pro rata, all claims against such corporation which have been allowed by them or which may be found to be due by any proper tribunal, and shall distribute

Board of management trustees to wind up business.

the balance of the assets, if any, pro rata among the members of said corporation.

"Sec. 3. Said trustees may, in their discretion, bring their application to the superior court for the county within which the corporation is located, or to any judge of the superior court if such court is not in session, setting forth the facts of such proposed dissolution, and praying the court, or such judge, to limit a period within which all claims against such corporation shall be presented, and such court or judge may make an order limiting the time within which claims shall be presented, which time shall not be less than four months from the date of such order; and such trustees shall proceed to wind up the affairs of the corporation, in accordance with the provisions of section two of this act, under the direction of the court, in the same manner as if they were receivers of said corporation. The court may, for cause shown, extend the period within which the trustees shall sell the property of the corporation.

Application to superior court.

"Sec. 4. All claims not presented within the time limited in accordance with the provisions of sections two and three of this act shall be barred, and any claim so presented and disallowed by such trustees shall be barred unless the owner thereof shall commence an action to enforce the same within four months after such trustees shall have given him written notice of its rejection.

When claims shall be barred.

"Sec. 5. No creditor shall, by attachment or by any process or proceeding, interfere with the custody, control, or disposition of the property of such corporation by its board of managers acting as trustees for the winding up of its corporate affairs under the provisions of this act, but any creditor, pending such winding up, may apply to the superior

Creditors not to interfere with control of property.

court in the county in which the corporation is located, or to a judge thereof if such court is not in session, for the appointment of a receiver of such property on the ground of fraud, mismanagement, or incompetency of such trustees, and such court or judge, upon finding that such trustees are incompetent, or have been guilty of fraud or mismanagement in the discharge of their duties, shall appoint such receiver, and the powers of such trustees shall thereupon terminate. Nothing herein contained shall, however, prevent any person from establishing any claim against such corporation by an action at law, or prevent the foreclosure of any lien or mortgage existing at the time of such vote or agreement to dissolve.

"*Sec. 6. Whenever the members of any such corporation shall, by vote or written assent, agree to the dissolution of such corporation, a majority of its said board of management shall make, sign, and make oath to, and file in the office of the secretary of the state, a certificate that such vote has been duly passed or such assent duly given, and stating the address to which all claims against such corporation may be sent; and said secretary shall thereupon record such certificate in a book kept by him for that purpose. When said board of management has completed its duties as such trustees, a majority thereof shall make, sign, and make oath to, and file in the office of the secretary of the state, a further certificate stating that said board of management has completed its duties in winding up the affairs of said corporation, and has sold or collected all of its assets and distributed the same, stating the manner of such distribution. The secretary shall examine the same and, if he finds that it conforms to law, shall indorse thereon the word 'Approved,' with his name and official title, and shall thereupon record such certificate in a book kept by him for that purpose; and when such certificate has been so approved by*

Certificates concerning dissolution.

the secretary the existence of the corporation shall terminate.

"Sec. 7. The existence of any such corporation shall continue during the proceedings for the winding up of its affairs so far as may be necessary to enable it to prosecute and defend suits by or against it, close up its affairs, dispose of its property, and distribute its assets."

Corporate existence to be continued for certain purposes.

Sec. 90. By-laws; assessments; fines. Any corporation without capital stock may make by-laws imposing fines and penalties, and may lay assessments or dues to further the objects of the corporation, either by by-laws adopted for that purpose or by vote of the members of such corporation at meetings warned and held for that purpose. No such by-law shall be adopted and no such assessment or due shall be laid except by a two-thirds vote of all the members of the corporation. No such fine, assessment, or due shall exceed the sum of twenty-five dollars. Such corporation may sue for and collect such fines and assessments and dues.

Sec. 91. Sections 3311 to 3398, inclusive, and 3928 to 3938, inclusive, of the general statutes and chapter 69 of the public acts of 1903 are hereby repealed.

The Corporation Act, as originally enacted, was approved June 22, 1903.

NOTES.

Fees for filing, etc., are covered by Gen. Statutes, Rev. of 1902:

"§ 4814. **Corporations without capital stock.** *Upon the approval by the secretary of the certificate of organization of a corporation without capital stock a fee of ten dollars shall be paid by it to the state treasurer.*"

Gen. Statutes, Rev. of 1902, relating to salaries and fees of various public officials, provides that the Secretary of State shall receive the following fees:

"*For filing or recording any documents required to be filed or recorded, otherwise than for the state, and for certified copies, except resolutions relating to payment from the treasury, when not otherwise specially provided for, one dollar for filing, and for recording, one dollar for two pages or less, and for each additional page at the rate of fifty cents per page; for preparing forms for certificates and returns of corporations, for recording same, and for copies of certificate, fifty cents for each page, but in no case less than one dollar; for filing copy of charter or certificate of organization of foreign corporation, ten dollars, and for filing the statement required from such corporation, five dollars; for secretary's certificate with the state seal impressed thereon, fifty cents; for certificate of record of trade union label, one dollar.*"

PROMOTERS.

A promoter has been defined to be a person who organizes a corporation. It is a business term "usefully summing up in a single word a number of business operations familiar to the commercial world by which a corporation is generally brought into existence." It is well settled that promoters occupy a fiduciary relation towards the corporation whose organization they are promoting. Yale Gas Stove Co. vs. Wilcox, 64 Conn. 101.

Promoters of a corporation are bound to the exercise of good faith toward all the stockholders, to disclose all the facts relating to the property, and are precluded from taking a secret advantage of other stockholders. Dickerman vs. Northern Trust Co., 176 U. S. 181.

False representations made to promoters and acted on by the corporation, will, after loss, enable the corporation to recover. Scholfield Gear & Pulley Co. vs. Scholfield, 71 Conn. 1, 14.

A corporation having accepted services incident to its incorporation and organization may lawfully undertake to pay therefor and a duly authorized note of the corporation given for the agreed amount rests upon a valid consideration. Smith vs. New Hartford Water Co., 73 Conn. 626.

EVIDENCE.

Gen. Stat., Rev. of 1902: "§ 734. **Disclosure; examination of officer of corporation.** *If a corporation is party to an action, the opposite party may examine the president, treasurer, secretary, clerk, or any director or other officer thereof, in the same manner as if he were a party to the suit.*"

Gen. Stat., Rev. of 1902: "§ 699. **Records of public offices and corporations.** *The entries or records of all corporations and all public offices, where entries or records are made of their acts, votes, and proceedings, by some officer appointed for that purpose, may be proved by a copy certified under the hand of such officer, and the seal of such corporation or office (if there be any); and if any such officer shall knowingly make a false certificate, he shall be punished in the same manner as if guilty of perjury.*"

Gen. Stat., Rev. of 1902: "§ 700. **Corporation certificates; copies as prima facie evidence.** *A copy of any certificate filed by any corporation for record in the office of the secretary of state in compliance*

with the requirements of law shall, when attested by said secretary under his hand and the seal of the state, be prima facie evidence of the facts set forth therein.''

Rules under the Practice Act: ''Sec. 161. In an action by a corporation, foreign or domestic, founded upon any contract, express or implied, the defendant shall not, under a general denial, be permitted to dispute, but shall be deemed to admit the capacity of the plaintiff to make such contract.''

Whether acts are in official or individual capacity. Notice to an officer of a corporation, addressed to him as such, dealing with matters under his official management, is notice to the corporation, and the parties sending it may presume, until otherwise informed, that the contents have been made known to the corporation. Smith vs. Board of Water Commissioners, 38 Conn. 208 at 219. See also Bridgeport Bank vs. N. Y. & N. H. Railroad Co., 30 Conn. 231, holding that the knowledge of an agent obtained while acting within the scope of his official power is the knowledge of the corporation, and a fraudulent act of such agent cannot be taken advantage of by the corporation. To the same point see Toll Bridge Co. vs. Betsworth, 30 Conn. 380. But notice to an officer must come to him in his official capacity, to become notice to the corporation, and if it comes to him as an individual merely, or in connection with a matter as to which he has no authority, it is not notice to the corporation. See Farrel Foundry vs. Dart et al., 26 Conn. 376; Farmers & Citizens' Bank vs. Payne, 25 Conn. 444.

Admissions. The admissions of individual members of a corporation, or of agents or officers not made in connection with any official act, or in the course of duty, are not admissible against the corporation. Hartford Bank vs. Hart, 3 Day, 491; Fairfield County Turnpike Co. vs. Thorp, 13 Conn. 173;

Morse, Adm. vs. Consol. Ry. Co., 81 Conn. 395; Starr Burying Ground Assn. vs. North Lane Cemetery Assn., 77 Conn. 83.

The president of a railroad company may testify as to its intention in improving and double tracking its line without producing a copy of a recorded vote or other evidence of formal action by its directors. The rule as to parol evidence of a corporate intent inconsistent with action which has been taken and is on record has no application to parol evidence as to a corporate intent respecting action to be taken in the future. N. Y., N. H. & H. R. R. Co. vs. Offield, 78 Conn. 1.

Evidence that a certain person was treasurer of a Connecticut corporation in 1903, since when it had failed to file any annual statement giving the names of its officers as required by statute, authorizes the inference that he was its treasurer up to the time of the hearing two or three years later. Stafford Springs St. Ry. Co. vs. Middle River Mfg. Co., 80 Conn. 37.

When a contract relating to the business of a corporation bears the name of the corporation as the first signature, followed by the names of certain corporate officers with their official titles, whether with or without the preposition "per" or "by," the corporation will be regarded as the signer and obligor, and the individuals will not be obligated, unless other language of the writing or its tenor indicates a contrary intention. The use of the pronoun "we" or "I" in the contract, referring to the obligor, is not sufficient to change this rule of construction. Jacobs vs. Williams et al., 85 Conn. 215.

APPENDIX.

APPENDIX.

In the following pages will be found the more important forms of certificates required by the Corporation Act, together with certain other forms of votes, records, etc., and instructions to incorporators and officers concerning the same.

[The only certified copies now required for filing with the town clerk are certificates of incorporation of stock companies (including any amendments made before filing the certificate of organization) and of corporations without capital stock, and of annual reports, which must be filed by chartered companies as well as those organized under the general law.]

FORMS.

1. Certificate of incorporation.
2. Amendment before organization.
3. Subscription to capital stock.
4. Notice of first meeting.
5. Waiver of notice.
6. Record of first meeting of directors.
7. Certificate of organization.
8. Statement of property received for capital stock.
9. Certificate of change of name.
10. Certificate of change of nature of business.
11. Certificate of change of location.
12. Certificate of increase of capital stock.
13. Certificate of issue of preferred stock.
14. Certificate of issue of additional shares of stock.
15. Certificate of reduction of capital stock.
16. Certificate of publication of certificate of reduction of capital stock.
17. Certificate of purchase of own stock.
18. Annual report.

19. Certificate of consolidation or merger.
20. Certificate of surrender of rights.
21. Certificate of stockholders' agreement to dissolve.
22. Certificate of vote to dissolve.
23. Final certificate of dissolution.
24. Certificate of dissolution, substitute for 23.
25. Certificate of acceptance of amendment to charter.
26. Artieles of association for corporations without capital stock.
27. Officers' statement by foreign corporations.
28. Certificate of appointment of Secretary of State as attorney by foreign corporation.
29. Annual report by foreign corporation.
30. Statement of mining and oil corporation.

Fees and taxes.

[*The three or more persons associating for the purpose of forming a corporation shall file in the office of the secretary of state a certificate, signed and sworn to by all of them, as follows:*]

FORM I.

Certificate of Incorporation of The

We, the subscribers, certify that we do hereby associate ourselves as a body politic and corporate under the statute laws of the State of Connecticut; and we further certify:

First: That the name of the corporation is (a) The .....Company, Corporation, (b) ..... Incorporated.

Second: That said corporation and its principal office or place of business is to be located in the town of....., in the State of Connecticut.

Third: That the nature of the business to be transacted, and the purposes to be promoted or carried out, by said corporation, are as follows:

.....
.....
.....
.....
.....

Fourth: That the amount of the capital stock of said corporation hereby authorized is..... dollars, divided into.....shares of the par value of.....dollars each, which stock shall be divided into classes as follows:

.....
.....
.....
.....
.....

Fifth: That the amount of capital stock with which said corporation shall commence business is..... dollars.

Sixth: That the duration of said corporation is *un*limited to ..... years.

Seventh:

SIGNATURES OF INCORPORATORS.

Name.	Residence.
..... of	State of .....
..... of	State of .....
..... of	State of .....
..... of	State of .....
..... of	State of .....

Dated at..... this..... day of .....19..

STATE OF .....,
County of ..... } *ss.:* ..... 19....

Personally appeared .....
.....
.....

.....,
being all of the incorporators of .....,
and made solemn oath to the truth of the foregoing certificate by them respectively subscribed, before me.

.....,
Justice of the Peace.
Notary Public.

STATE OF CONNECTICUT, Office of the Secretary. } *ss.:* ..... 19....

Indorsed:.....

.....,
Secretary.

STATE OF CONNECTICUT, Office of the Secretary. } *ss.:*

I hereby certify that the foregoing is a true copy of a certificate filed in this office, and of the indorsement of approval thereon.

In Testimony Whereof, I have hereunto set my hand, and affixed the Seal of said State, at Hartford, this .....
day of ....., A. D. 19....
.....,
Secretary.

[*On payment of the franchise tax to the treasurer of the state, as required by § 61 of the Corporation Act, this certificate will be indorsed "Approved" by the secretary of state, who will furnish a certified copy thereof and of his approval, which copy must be filed in the office of the town clerk of the town in which the corporation is to be located (see § 60 ante), and the associated persons thereupon become "Incorporators" (see § 66 ante) with power to receive subscriptions to the capital stock and to organize the corporation.*]

FORM II.

Amendment Before Organization of Certificate of Incorporation.

We, the undersigned, being all of the incorporators of The ....., a corporation whose certificate of incorporation was filed in the office of the secretary of state on the .....day of ....., 19...., and whose certificate of organization has not yet been filed in said office, hereby certify that paragraph ..... of said certificate has been amended by striking out the words "..... ....." and inserting in lieu thereof the words "....." so that said paragraph as amended shall read as follows:

And we further certify that such amendment has been approved in writing by all of the subscribers to the capital stock of said corporation,* none of the capital stock of said corporation has been subscribed for.*

Dated at ..... this ..... day of .....,19....

.....,
.....,
.....,
Incorporators.

STATE OF CONNECTICUT, }
County of ..... } *ss.:*

Personally appeared ....., being all of the incorporators of The ....., and made solemn oath to the truth of the foregoing certificate by them respectively subscribed, before me.

.....,
Justice of the Peace.
Notary Public.

*Strike out whichever of these clauses does not apply.

FORM III.

Subscription to Capital Stock.

Whereas the Certificate of Incorporation of The ..... on file in the office of the Town Clerk of the Town of ....., State of Connecticut, in which town said corporation is to be located, sets forth that said corporation is to be organized under the statute laws of the State of Connecticut, and has an authorized capital stock of..... ..... dollars, divided into ..... shares, each of the par value of ..... dollars, divided into classes as follows: (*Insert description of different classes as stated in fourth section of the Certificate of Incorporation.*)

Now, therefore, subject to the provisions of the statute laws of the State of Connecticut, and under the terms and conditions set forth in said Certificate of Incorporation, each subscriber hereto agrees to take the number and class of shares of said capital stock annexed to his name, each share to be of the par value of .....dollars, and further agrees to pay for the same in cash and in such instalments as the directors shall call in the same upon receipt of due notice of the amount thereof and the time when they are payable. (*Note. If otherwise than in cash it may be so noted in the subscription.*)

Dated at ....., this ..... day of ....., 19....

Name.	Residence.	Address.	No. and class of shares.
.....			
.....			
.....			
.....			
.....			
.....			

[*The following may be used as a form for calling the first meeting by publication:*]

FORM IV.

Notice of First Meeting.

The undersigned being a majority of the incorporators of The ....., a corporation to be organized under the statute laws of the State of Connecticut, hereby unite in calling the first meeting of said corporation to be held at ....., in the town of ..... in said state, on the ..... day of ....., 19...., at ..... o'clock .. M. And in compliance with the provisions of said statute laws this notice is published twice, at least seven days before the time set for said meeting, in The ....., a newspaper of this state having a circulation in the town of ..... in this state, in which town said corporation is to be located.

Dated at ....., this ..... day of ....., 19....

.....,
.....,
.....,
.....,
.....,
.....,

A majority of the Incorporators.

[*If, however, all of the subscribers for capital stock and a majority of the incorporators sign a waiver of notice of the first meeting, a form for which follows, the publication of the foregoing notice may be dispensed with.*]

FORM V.

Form of Waiver of Notice.

NOTICE OF THE FIRST MEETING OF THE A. B. CORPORATION.

The undersigned being a majority of the incorporators, and all the subscribers to the capital stock, of "The A. B. Corporation," a corporation to be organized under the statute laws of the State of Connecticut, hereby unite in calling the first meeting of said corporation to be held at ..... in the town of ....., county of ....., in said state, on the ..... day of ....., A. D., 19...., at ..... o'clock, .. M., and we do hereby severally, each for himself, waive all right to, and agree to dispense with, the seven days' notice for said meeting, specified in the statute laws under which said company is to be organized. And this instrument is to be recorded at length upon the records of said corporation.

Dated at ....., this ..... day of ....., 19....

[*At said first meeting a temporary clerk shall be chosen by the subscribers to the capital stock, the incorporators having no vote unless they are also subscribers for the stock, their duties as incorporators having ceased with the beginning of the meeting.*

The temporary clerk should open the record book as follows: He should first copy the certificate of incorporation, with the names of the incorporators, and the indorsements showing payment of the franchise tax and the approval of the secretary of state, and attest it as a true copy thus:

"The foregoing is a true copy of the original Certificate of Incorporation of The and of the indorsements thereon."

Attest: .....,
Temporary Clerk.

He should next copy the form of subscription to the capital stock with the names, residences, and addresses of the subscribers, and the number and class of shares subscribed for by each, and attest it as a true copy in the manner shown above.

He should next copy the notice of the first meeting, or the waiver of notice if publication was dispensed with, attaching a similar certificate.

He should then begin his record of the first meeting of the subscribers to the capital stock as follows:]

At the first meeting of the stockholders of The ....., held at ....., in the town of ....., county of ....., State of Connecticut, at ..... o'clock ... M., in pursuance of the (foregoing notice and waiver) or (foregoing notice) ..... was by ballot chosen temporary clerk, and the following named persons, subscribers for the stock of said corporation, were by ballot duly elected directors of said corporation to hold their offices until the next annual meeting of the corporation, and until others shall be chosen in their stead.

[*Insert names and addresses of directors.*]

The following were adopted as by-laws for the regulation of the affairs of the corporation:

[*Annexed are some general by-laws adapted to most, if not all, corporations organized under this act, which can be altered, added to, or omitted as the exigencies of each company may require.*]

First. The stock, property and affairs of this corporation shall be under the care and management of not less than three nor more than ..... directors, who shall be stockholders, and shall be chosen annually, at the annual meeting of said corporation.

Second. The officers of this corporation shall con-

sist of a president, secretary and treasurer [and the same person may fill the office of president and treasurer, or of secretary and treasurer].

Third. It shall be the duty of the president to preside at all the meetings of the stockholders of said corporation, and in his absence a president *pro tem.* shall be appointed for such duty. And he shall also perform all the duties specially required of him by the act under which this corporation is organized.

Fourth. It shall be the duty of the secretary to make and keep records of the votes, doings and proceeding of all meetings of the stockholders and of the directors of said corporation, which records shall at all reasonable times be open to the inspection of the stockholders; he shall discharge all other duties specially required of such officer by the act aforesaid. He shall also transmit to the stockholders and directors the notices required by these by-laws and by law.

Fifth. It shall be the duty of the treasurer to receive and keep the cash funds and notes belonging to the corporation, and to enter regularly in books kept for that purpose all moneys received and disbursed on account of said corporation, which books shall at all reasonable times be open to the inspection of the stockholders of said company; [and in the prosecution of the business of said corporation (but for no other purpose) said officer may in behalf of the corporation make, draw, endorse and accept cheques, notes and bills of exchange]. He shall perform all other acts and duties specially required of such officer by the act aforesaid [and shall give bond in the sum of ..... dollars to the acceptance of the directors, for the faithful discharge of his duties].

Sixth. Annual meetings of the stockholders of said corporation and for the choice of directors thereof, and for the transaction of any other appropriate business, shall be held on the first [Monday] of ..... in each year, at the office of the corporation in the town of .....

Seventh. Special meetings of the stockholders of said corporation may be held at any time upon like notice, as that prescribed in said act for annual meetings, and the president shall give such notice upon the request in writing of one or more stockholders, holding at least one-tenth of the capital stock calling for such special meeting, and shall specify therein the object and purpose of such meeting.

Eighth. Regular meetings of the directors of said corporation shall be held on [the first Monday of each month], and special meetings of the directors may be held at such times and places as in the opinion of the president the interests of said corporation shall require, reasonable notice having been given thereof.

Ninth. All votes of said corporation shall, if requested by any stockholder, be by ballot, and the name of each stockholder voting shall be written thereon with the number of shares held by him. Any stockholder may constitute an agent to vote in the meetings of this corporation by writing signed by him for that purpose [and such proxy shall entitle the person thus authorized to vote at all meetings of the stockholders held during the eleven months next succeeding the date of said instrument, and no longer, unless a longer term be expressly provided for therein].

Tenth. Whenever the directors shall call in the capital stock of said corporation by instalments or otherwise, the treasurer shall give notice thereof, by letter addressed to the several stockholders at their respective places of residence, which notices shall be given at least ..... days before said payment shall be required to be made.

Eleventh. Regular transfer books shall be kept by the secretary, and no transfer shall be permitted except upon said books either by the stockholder in person, or by power of attorney executed by him for that purpose.

Twelfth. The by-laws of this corporation may

be altered or repealed at any legal meeting of the stockholders by a majority vote of the stock represented at such meeting [but no alteration of said by-laws shall be made at any meeting unless a majority of the whole stock of said corporation shall be represented at such meeting].

The meeting then adjourned.

Attest: ....., Temporary Clerk.

[*At the adjournment of the first meeting of the stockholders the duties of the temporary clerk cease, and the record book is thereafter to be attested by the secretary of the corporation, who is to be elected at the first meeting of the directors. This meeting may be held after the adjournment of the first meeting of the stockholders, and a form of record thereof may be as follows:*]

FORM VI.

Form of Record of the First Meeting of Directors.

At a meeting of the directors of The A. B. Company, held pursuant to legal notice at ....., in the town of .....

Present

[*It is advisable that the record should in all cases disclose the names of the directors present at meetings of the board.*]

The following named persons were elected officers of said corporation, to hold their offices respectively until the next annual meeting of the corporation, and until others shall be chosen in their stead—to wit: ..... to be president of said corporation; ..... to be secretary of said corporation; ..... to be treasurer of said corporation.

Voted, That a majority of the directors make and caused to be filed the certificate of organization of this corporation, in compliance with the requirements of law, and

Voted, That the secretary of this corporation be and is hereby directed to file said certificate of organization in the office of the secretary of state.

The meeting then adjourned.

Attest: ....., Secretary.

[*A majority of the directors should then make and swear to the certificate of organization.*

The secretary of the corporation should then continue his record as follows:]

In pursuance of the foregoing vote of the directors I caused the certificate of organization of this corporation to be filed in the office of the secretary of state on the ..... day of ....., 19...., and on the ..... day of ....., 19...., I received from him a copy thereof duly approved by him and certified under his hand and the seal of the state, of which the following is a true copy:

FORM VII.

Certificate of Organization.

The undersigned, a majority of the directors of The ....., located in the town of ....., hereby certify as follows:

First. That the amount of the authorized capital stock subscribed for is ..... shares, of ..... dollars each, being ..... shares of preferred stock and ..... shares of common stock, amounting

to ..... dollars, and being not less than the full amount of ..... dollars, with which the incorporators in the certificate of incorporation stated the company would begin business.

Second. That the amount paid thereon in cash is ..... dollars.

Third. That the amount paid thereon in property other than cash is ..... dollars.

Fourth. That ..... dollars has been paid upon each share subscribed for except .... shares, upon which ..... dollars only has been paid.

Fifth. That the name, residence and address of each of the original subscribers to said stock, with the the number and class of shares subscribed for by each, are as follows:

Name.	Residence.	P. O. Address.	No. of shares preferred.	No. of shares common.

Sixth. That the directors and officers of said corporation have been duly elected, and that its by-laws have been adopted.

Seventh. The name, residence and post office address of each of the officers and directors of said corporation are as follows:

Name.	Residence.	P. O. Address.
President,	.....	.....
Vice-President,	.....	.....
Treasurer,	.....	.....
Assistant Treasurer,	.....	.....
Secretary,	.....	.....
Assistant Secretary,	.....	.....
	Residence.	P. O. Address.
Directors,	.....	.....

Eighth. The location of its principal office in this state is No. ..... Street, ..., and the name of the agent or person in charge

thereof on whom process against it may be served is .....

Dated at ....., this ..... day of ....., 19....

.....,
.....,
.....,
.....,
.....,
A majority of the Directors.

STATE OF CONNECTICUT, County of ..... } *ss.:* ..... 19....

Personally appeared ..... signers of the foregoing certificate of organization, a majority of the directors of The ....., and made oath to the truth of the same before me.

.....,
Justice of the Peace.
Notary Public.

STATE OF CONNECTICUT, Office of the Secretary. } *ss.:* ..... 19....

Indorsed: .....

.....,
Secretary.

STATE OF CONNECTICUT, Office of the Secretary. } *ss.:* ..... 19....

I hereby certify that the foregoing is a true copy of a certificate filed in this office and of the indorsement of approval thereon.

In Testimony Whereof, I have hereunto set my hand and affixed the Seal of said State, at Hartford, this ..... day of ....., 19....

.....,
Secretary.

Attest: .....,
Secretary.

[*After the certificate of organization has been approved by the secretary of state, the directors have power to call in instalments of the capital stock and to assume the control of the property and affairs of the corporation. A form of vote to call in instalments is as follows:*]

Voted, That an instalment of ..... dollars on each share of the capital stock of this corporation be called, and the same be paid to the treasurer of the corporation on or before the ..... day of ....., 19....

[*If any property other than cash is received in payment for capital stock the directors are required by § 12 to sign a statement on the record book of the corporation showing of what the property consists and its actual value. In such case the following form may be used:*]

FORM VIII.

Statement of Property Received for Capital Stock.

We, the undersigned, a majority of the directors of The .....
.....,
hereby make and sign upon this, the record book of said corporation, the following statement showing particularly of what the property other than cash received in payment for subscriptions to capital stock consists, and that it has an actual value equal to the amount for which it is so received.

Description of property.	Value for which received.	Actual value.
.....		
.....		
.....		

.....
.....
.....,
.....,
.....,
.....,
.....,

A majority of the Directors.

[*While the property and affairs of the corporation are under the control and management of the directors by statutory provision (see § 10) it is nevertheless desirable at times that the stockholders should pass a vote in the nature of a request to the directors, asking them to take action,—as, for instance, in the matter of the investment of a large part of the capital of the corporation in the purchase of land, machinery, stock, etc. Such a vote follows:*]

Voted, That the directors of this corporation be and they are hereby requested—if in their opinion it be advisable—to purchase of ..... (at a sum not exceeding ..... dollars) or (upon such terms as they may deem best, etc.) the following described property:

.....
.....
.....
.....
.....

[*The following forms of certificates may be used after the passage of the appropriate resolutions by the stockholders, the character of the resolution required being sufficiently indicated in the form of certificate to be filed. The record book of the corporation should show the vote of the directors instructing the secretary to file the certificate with the secretary of state, the*

statement that the certificate has been filed, a copy of the certificate itself, all of which may be shown in the same manner as is prescribed concerning the Certificate of Organization.]

FORM IX.

Certificate of Change of Name.

We, the undersigned, a majority of the directors of The .....
Corporation, Incorporated, a corporation organized under the statute laws of the State of Connecticut and located in the town of ....., in said state,

Hereby Certify: That at a meeting of the stockholders of said corporation duly called for that purpose and held at ....., in said state, on the ..... day of ....., 19...., the name of said corporation was changed from The .....
Corporation, Incorporated, to The .....
.....
Corporation, Incorporated, by a resolution adopted at said meeting by a vote of (more than) two-thirds of all the outstanding stock of each class, of which resolution the following is a copy:

.....
.....
.....
.....

Dated at ....., this ..... day of ....., 19....

.....,
.....,
.....,
.....,

A majority of the Directors.

STATE OF CONNECTICUT, } *ss.:* ..... 19....
County of ..... }
Personally appeared .....
.....
.....
a majority of the directors of The .....
.....
and made oath to the truth of the foregoing certificate, by them signed, before me.

.....,
Justice of the Peace.
Notary Public.

FORM X.

Certificate of Change of Nature of Business.

We, the undersigned, a majority of the directors of The .....
.....
Corporation, Incorporated, a corporation organized under the statute laws of the State of Connecticut, and located in the town of ..... in said state,

Hereby Certify: That at a meeting of the stockholders of said corporation duly called for that purpose, and held at ....., in said state, on the ..... day of ....., 19...., the nature of the business to be transacted, and the purposes to be promoted or carried out, by said corporation, were changed, by a resolution adopted at said meeting by a vote of (more than) two-thirds of all the outstanding stock of each class, of which resolution the following is a copy:

.....
.....
.....
.....
.....

Dated at ....., this ..... day of ....., 19....

.....,
.....,
.....,
.....,
.....,

A majority of the Directors.

STATE OF CONNECTICUT, County of ..... } *ss.:* ..... 19....

Personally appeared .....
.....
.....
a majority of the directors of The .....
.....
and made oath to the truth of the foregoing certificate, by them signed, before me,

.....,

Justice of the Peace.
Notary Public.

FORM XI.

Certificate of Change of Location.

We, the undersigned, a majority of the directors of The .....
.....,
a corporation organized under the statute laws of the State of Connecticut and located in the town of ....., in said state, hereby certify:

That at a meeting of the stockholders of said corporation duly called for that purpose, and held at ....., in said state, on the ..... day

of ....., 19...., the location of said corporation was changed from the town of ..... aforesaid, to the town of ....., in said state, by a resolution adopted by the stockholders at said meeting by a vote of (more than) two-thirds of all the outstanding stock of each class, of which resolution the following is a copy:

.....
.....
.....
.....
.....

Dated at ....., this ..... day of ....., 19....

.....,
.....,
.....,
.....,
.....,

A majority of the Directors.

STATE OF CONNECTICUT, County of ..... } *ss.:* ..... 19....

Personally appeared .....
.....
.....
a majority of the directors of The .....
.....
and made oath to the truth of the foregoing certificate, by them signed, before me,

.....,

Justice of the Peace.
Notary Public.

FORM XII.

Certificate of Increase of Capital Stock.

We, the undersigned, a majority of the directors of The .....
....., a corporation organized under the statute laws of the State of Connecticut and located in the town of ....., in said state,

Hereby Certify: That at a meeting of the stockholders of said corporation duly called and held for that purpose at ....., in said state, on the ..... day of ....., 19...., the authorized capital stock of said corporation was increased from the sum of ..... dollars to the sum of ..... dollars, and the number of shares of the capital stock was proportionately increased from the number of ..... shares of preferred and ..... shares common, to the number of ..... shares preferred and ..... shares common, each share of the par value of ..... dollars, by a resolution duly adopted by a vote of (more than) two-thirds of all the outstanding stock of each class, of which resolution the following is a copy:

.....
.....
.....
.....

Dated at ....., this ..... day of ....., 19....

.....,
.....,
.....,
.....,
.....,

A majority of the Directors.

STATE OF CONNECTICUT, County of ..... } *ss.:* ..... 19....

Personally appeared .....
.....
.....
a majority of the directors of The .....
.....
and made oath to the truth of the foregoing certificate, by them signed, before me,

.....,

Justice of the Peace.
Notary Public.

FORM XIII.

Certificate of Issue of Preferred Stock.

We, the undersigned, a majority of the directors of The .....,
a corporation organized under a special charter granted by the general assembly of the State of Connecticut, and located in the town of ....., in said state,

Hereby Certify: That at a meeting of the stockholders of said corporation duly called and held for that purpose at ....., in said state, on the ..... day of ....., 19...., it was resolved by a vote of (more than) two-thirds of all the stock of such corporation, to increase the capital stock of said corporation by issuing shares of preferred stock, of the par value of ..... dollars each, which shares shall be entitled to dividends at the rate of ..... per centum per annum before anything shall be paid on the common stock, said dividends to be cumulative, making the whole number of shares issued ....., and the whole amount

of capital stock.....dollars, of which resolution the following is a copy:

.....
.....
.....

Dated at ....., this ..... day of ....., 19....

.....,
.....,
.....,
.....,
.....,

A majority of the Directors.

STATE OF CONNECTICUT, County of ..... } *ss.:* ..... 19....

Personally appeared .....
.....
.....
a majority of the directors of The .....
.....
and made oath to the truth of the foregoing certificate, by them signed, before me,

.....,

Justice of the Peace.
Notary Public.

FORM XIV.

Certificate of Issue of Additional Shares of Stock.

The undersigned, a majority of the directors of The .....
.....,
a corporation organized under the statute laws of the State of Connecticut, and located in the town of ....., in said state,

Hereby Certify: That at a meeting of the stockholders of said corporation duly warned for that purpose and held at ....., in said state, on the ..... day of ..... 19...., the directors were empowered by a vote of (more than) two-thirds of all the stock represented at said meeting to issue ..... additional shares of the authorized capital stock of said corporation, and at a meeting of said directors held on the ..... day of ....., 19 ...., it was voted to issue said shares, thereby making the outstanding stock ..... dollars, and we do further certify:

First. That the amount of said additional shares issued is ..... dollars, divided into ..... shares of preferred stock, and ..... shares of common stock, each share of the par value of ..... dollars.

Second. That all of said shares have been subscribed for.

Third. That the amount paid thereon in cash is ..... dollars.

Fourth. That the amount paid thereon in property other than cash is ..... dollars, and the character of such property is as follows:

.....
.....
.....
.....
.....

Fifth. That ..... dollars has been paid on each of said shares except ..... shares, upon which ..... dollars only has been paid.

Sixth. That the name, residence, and address of each of the subscribers to said stock with the number and class of shares subscribed for by each, are as follows:

Name.	Residence.	No. and class of shares.
.....	.....	.....
.....	.....	.....
.....	.....	.....
.....	.....	.....
.....	.....	.....

Dated at ....., this ..... day of ....., 19....

.....,
.....,
.....,
.....,
.....,

A majority of the Directors.

STATE OF CONNECTICUT, County of ..... } *ss.:* ..... 19....

Personally appeared .....
.....
.....
a majority of the directors of The .....
.....
and made oath to the truth of the foregoing certificate, by them signed, before me,

.....,

Justice of the Peace.
Notary Public.

FORM XV.

Certificate of Reduction of Capital Stock.

We, the undersigned, a majority of the directors of The .....,
a corporation organized under the statute laws of

the State of Connecticut and located in the town of ....., in said state,

Hereby Certify: That at a meeting of the stockholders of said corporation specially warned for that purpose, and held at ....., in said state on the ..... day of ....., 19...., the authorized capital stock of said corporation was reduced from the sum of ..... dollars to the sum of ..... dollars, and the number of shares of the capital stock was proportionately decreased from ..... shares preferred and ..... shares common, to ..... shares preferred and ..... shares common (the par value of the shares was proportionately decreased from ..... dollars per share to ..... dollars per share), by a resolution adopted at said meeting by a two-thirds vote of all the outstanding stock of each class, a copy of which resolution is as follows:

.....
.....
.....
.....
.....

And we do further certify that the records of the corporation contain a complete list of all the stockholders who voted in favor of said resolution to reduce the capital stock.

Dated at ....., this ..... day of ....., 19....

.....,
.....,
.....,
.....,
.....,

A majority of the Directors.

STATE OF CONNECTICUT, County of ..... } *ss.:* ..... 19....

Personally appeared .....

.....

.....

a majority of the directors of The .....

.....

and made oath to the truth of the foregoing certificate, by them signed, before me,

.....,

Justice of the Peace.
Notary Public.

FORM XVI.

Certificate of Publication of Certificate of Reduction of Capital Stock.

We, the undersigned, a majority of the directors of The .....,
a corporation organized under the statute laws of the State of Connecticut and located in the town of ....., in said state,

Hereby Certify: That a copy of the certificate of reduction of capital stock of said corporation filed in the office of the secretary of state, was published on the ..... days of ....., 19...., being twice a week for two successive weeks, in The .....,
a newspaper published in this state and having a circulation in the town in which said corporation is located; and we do further certify that said publication was made within thirty days from the date of the vote of the stockholders of said corporation authorizing said reduction of its capital stock.

Dated at ....., this ..... day of ....., 19....

.....,
.....,
.....,
.....,
.....,

A majority of the Directors.

STATE OF CONNECTICUT, County of ..... } *ss.:* ..... 19....

Personally appeared .....
.....
.....
a majority of the directors of The .....
.....,
and made oath to the truth of the foregoing certificate, by them signed, before me,

.....,

Justice of the Peace.
Notary Public.

FORM XVII.

Certificate of Purchase of Own Stock.

We, ... President, and ..... Treasurer, of The .....,
a corporation organized under the statute laws of the State of Connecticut, and located in the town of ....., in said state, hereby certify that at a meeting of the stockholders of said corporation specially warned for that purpose, held at ..... in said state, on the ..... day of ..... 19...., a resolution approving of the purchase by said corporation of ..... shares of its own stock was adopted by a vote of (more than) three-

fourths of the entire outstanding capital stock, at which meeting said corporation did not vote upon any shares of its own stock held by it; and,

Since the adoption of said resolution said corporation has purchased and acquired, and now holds .... shares of its own—Preferred—Common—stock. The following is a copy of the foregoing resolution:

.....
.....
.....

....., President.

....., Treasurer.

STATE OF CONNECTICUT, County of ..... } *ss.:* ..... 19....

Personally appeared ..... President, and ..... Treasurer, of The ....., and made oath to the truth of the foregoing certificate, by them signed, before me,

....., Justice of the Peace. Notary Public.

FORM XVIII.

Annual Report.

We, ... President, and ..... Treasurer, of The ....., a corporation organized under the statute laws of the State of Connecticut, and located in the town of ....., in said state, hereby certify as of the first day of January (July), 19....,

First. That the name, residence and post office address of each of its officers and directors were as follows:

Name.	Residence.	P. O. Address.
President,	.....	.....
Vice-President,	.....	.....
Treasurer,	.....	.....
Assistant Treasurer,	.....	.....
Secretary,	.....	.....
Assistant Secretary,	.....	.....
Directors,	.....	.....
	.....	.....
	.....	.....
	.....	.....
	.....	.....

Second. That the amount of its outstanding capital stock which had not been paid for in full was .... dollars, and the amount due thereon was ..... dollars.

Third. The location of its principal office in Connecticut was No. ..... Street, ..., and the name of the agent or person in charge thereof on whom process against it may be served is ....

Dated at ....., this ..... day of ....., 19....

....., President.

....., Treasurer.

FORM XIX.

Certificate of Consolidation or Merger.

We, the undersigned, a majority of the directors of each of the following named corporations organized

under the statute laws of the State of Connecticut, to wit:

The .....,
located in the town of .....,
The .....,
located in the town of .....,
The .....,
located in the town of .....,
all in the State of Connecticut, for the purpose of effecting a consolidation and merger of the above-named corporations under and by virtue of the provisions of the statute laws of said state, said corporations being engaged in business of the same or a similar nature, hereby enter into an agreement as follows:

And we further agree:

First. That the name of the consolidated corporation shall be .....

Second. That the following are the names and places of residence of all of its first directors:

Name.	Residence.
.....	.....
.....	.....
.....	.....
.....	.....
.....	.....

Third. That said corporation and its principal office or place of business is to be located in the town of ....., in the State of Connecticut.

Fourth. That the nature of the business to be transacted, and the purposes to be promoted or carried out, by said corporation, are as follows:

.....
.....
.....
.....
.....

Fifth. That the combined capital stock of the corporations hereby consolidating is ..... dollars, and the amount of the capital stock of said consolidated corporation hereby authorized is ..... dollars, divided into ..... shares of common stock of the par value of ..... dollars each, and ..... shares of preferred stock of the par value of ..... dollars each, the nature of the preference of the preferred stock being as follows:

.....
.....
.....
.....

Sixth. That the duration of said corporation is *un*limited.

Seventh. That the manner of converting the shares of capital stock of each of the old corporations into shares of the capital stock of the consolidated corporation is as follows:

In witness whereof, we have hereunto set our hands and attached the seals of the several corporations at ....., this ..... day of ....., 19....

[Seal.] .....,
Directors of .....

[Seal.] .....,
Directors of .....

[Seal.] .....,
Directors of .....

STATE OF CONNECTICUT, } *ss.:* ....., 19....
County of ..... }

I, ..., Secretary of The .....,
a corporation organized under the statute laws of the State of Connecticut, hereby certify that the foregoing agreement was on the ....., day of .....

....., 19...., submitted to the stockholders of said corporation at a meeting called for the purpose of considering the same, notice thereof having been given, and publication thereof having been duly made, as required by law, and that two-thirds or more of all the outstanding stock of each class voted to approve such merger and consolidation.

[Seal.] .....,
Secretary of The .....

STATE OF CONNECTICUT, } *ss.:* ..... 19....
County of ..... }

I, ..., Secretary of The ....., a corporation organized under the statute laws of the State of Connecticut, hereby certify that the foregoing agreement was on the ..... day of ...., 19...., submitted to the stockholders of said corporation at a meeting called for the purpose of considering the same, notice thereof having been given, and publication thereof having been duly made, as required by law, and that two-thirds or more of all the outstanding stock of each class voted to approve such merger and consolidation.

[Seal.] .....,
Secretary of The .....

STATE OF CONNECTICUT, } *ss.:* ..... 19....
County of ..... }

I, ..., Secretary of The ....., a corporation organized under the statute laws of the State of Connecticut, hereby certify that the foregoing agreement was on the ..... day of ...., 19...., submitted to the stockholders of said corporation at a meeting called for the purpose of considering the same, notice thereof having been given, and publication thereof having been duly

made, as required by law, and that two-thirds or more of all the outstanding stock of each class voted to approve such merger and consolidation.

[Seal.] ....,

Secretary of The ....

STATE OF CONNECTICUT, County of .... } *ss.:* .... 19....

Personally appeared ...., Secretary of The................................, and made oath to the truth of the foregoing certificate, by him signed, before me.

..............................,

Notary Public.
Justice of the Peace.
Commissioner of the Superior Court.

STATE OF CONNECTICUT, County of .... } *ss.:* .... 19....

Personally appeared ...., Secretary of The................................, and made oath to the truth of the foregoing certificate, by him signed, before me.

..............................,

Notary Public.
Justice of the Peace.
Commissioner of the Superior Court.

STATE OF CONNECTICUT, County of .... } *ss.:* .... 19....

Personally appeared ...., Secretary of The................................, and made oath to the truth of the foregoing certificate, by him signed, before me.

..............................,

Notary Public.
Justice of the Peace.
Commissioner of the Superior Court.

FORM XX.

Certificate of Surrender of Rights.

We, the undersigned, the incorporators and subscribers for stock of The ....., a corporation existing under the statute laws of the State of Connecticut, and located in the town of ....., in said state, hereby certify:

First. That said corporation has not been organized, and no part of the subscriptions to its stock has been paid.

Second. That no business has been commenced by said corporation.

Third. That no debts have been incurred by it which have not been paid.

That we hereby surrender all rights of said corporation together with its franchise.

Dated at ....., this ..... day of ....., 19....

.....,
.....,
.....,
.....,

Incorporators.

.....,
.....,
.....,
.....,

Subscribers.

STATE OF CONNECTICUT, County of ..... } *ss.:* ..... 19....

Personally appeared .....,
.....,
....., the incorporators and subscribers to stock of The .....

and made oath to the truth of the foregoing certificate, by them signed, before me,

.....,

Justice of the Peace.
Notary Public.

FORM XXI.

Certificate of Stockholders' Agreement to Dissolve.

We, the undersigned, a majority of the directors of The ....., a corporation organized under the statute laws of the State of Connecticut and located in the town of ....., county of ....., in said state, hereby certify:

First. That every stockholder of said corporation has signed and acknowledged an agreement that the corporate existence of said corporation shall be terminated, which instrument is dated the ..... day of ....., 19....

Second. All claims against said corporation may be sent to .....
P. O. address, ...

Dated at ....., this ..... day of ....., 19....

.....,
.....,
.....,
.....,
.....,

A majority of the Directors.

STATE OF CONNECTICUT, } *ss.:* ..... 19....
County of ..... }

Personally appeared .....
.....
.....,

a majority of the directors of The .....
.....,
and made oath to the truth of the foregoing certificate, by them signed, before me,

.....,

Justice of the Peace.
Notary Public.

FORM XXII.

Certificate of Vote to Dissolve.

We, the undersigned, a majority of the directors of The .....,
a corporation organized under the statute laws of the State of Connecticut, located in the town of ....., in said state,

Hereby Certify: That at a meeting of the directors of said corporation, held at ..... on the ..... day of ....., 19...., it was voted to terminate its corporate existence.

That a special meeting of the stockholders was forthwith called to be held thirty days thereafter, to wit: on the ..... day of ....., 19....

That the call for said meeting contained a copy of said vote, and was published four times, once during each week preceding such meeting, in the ....., a newspaper published in ..... and having a circulation in the town where said corporation is located, and a copy thereof was sent by mail to the last known address of each stockholder.

At said stockholders' meeting, there being represented in person or by proxy ..... shares of common stock and ..... shares of preferred stock, it was voted to confirm said vote of the directors, the number of shares of common stock voting therefor being ....., and the

number of shares of preferred stock voting therefor being ....., and each being three-fourths or more of the whole of each class of stock.

All claims against said corporation may be sent to .....
.....

Dated at ....., this ..... day of ....., 19....

.....,
.....,
.....,
.....,
.....,

A majority of the Directors.

STATE OF CONNECTICUT, } *ss.:* ..... 19....
County of ..... }

Personally appeared .....
.....
.....,
being a majority of the directors of The .....
.....,
and made oath to the truth of the foregoing certificate, by them signed, before me,

.....,

Justice of the Peace.
Notary Public.

FORM XXIII.

Final Certificate of Dissolution.

We, the undersigned, a majority of the directors of The .....,
a corporation organized under the statute laws of the State of Connecticut, and located in the town of ....
....., in said state, acting herein as trustees to close up the business of said corporation under the provisions of said statute laws,

Hereby Certify: That we have completed our duties as prescribed by §§ 30-34 of Chapter 194 of the Public Acts of 1903, in winding up the affairs of said corporation, and have sold or collected all of its assets, and have distributed the same in the manner following:

.....
.....
.....
.....

Dated at ....., this ..... day of ....., 19....

.....,
.....,
.....,
.....,
.....,

A majority of the Directors acting as Trustees.

STATE OF CONNECTICUT, County of ..... } *ss.:* ..... 19....

Personally appeared .....
.....
....., being a majority of the directors acting as trustees of The .....
....., and made oath to the truth of the foregoing certificate, by them signed, before me,

.....,

Justice of the Peace.
Notary Public.

[*The following form, not furnished by the secretary of state, may be used as a substitute for the foregoing, as showing more complete compliance with the statutes by the trustees in the performance of their duties in winding up the affairs of the corporation.*]

FORM XXIV.

Certificate of Dissolution.

We, the undersigned, a majority of the directors of The ....., a corporation organized under the statute laws of the State of Connecticut and located in the town of ....., in said state, acting herein as trustees to close up the business of said corporation under the provisions of said statute laws, hereby certify:

First. That we have completed our duties in winding up the affairs of said corporation.

Second. That we prepared an inventory of its assets, collected the bills and accounts receivable, and made a list of its creditors.

Third. That within two weeks from the date of the (vote) (written agreement) to dissolve said corporation, we sent a written notice of such proposed dissolution to every known creditor of said corporation, warning him to present his claim, and on the ..... day of ....., 19...., published a copy of said notice and warning in the ....., a newspaper published in this state and having a circulation in the town of ....., in which town said corporation is located.

Fourth. On the ..... day of ....., 19...., to wit, within one year from the date of said stockholders' (agreement) (vote) to dissolve the corporation, all of its collectible assets were collected, and all of its property and uncollected accounts not in litigation, except money, that could not be advantageously sold at private sale, were disposed of at public auction, and as soon as practicable thereafter all claims allowed by said trustees against said corporation were paid (in full and the balance of assets, namely ..... per centum of all outstanding capital stock, were distributed among the stock-

holders of said corporation) or (*pro rata* among the creditors of said corporation at the rate of ..... per centum of each claim, except preferred claims which were paid in full) as appears in the following schedule of distribution:

.....
.....
.....
.....
.....

.....,
.....,
.....,
.....,
.....,

A majority of the Directors acting as Trustees.

STATE OF CONNECTICUT, County of ..... } *ss.:* ..... 19....

Personally appeared .....
.....
....., a majority of the directors acting as trustees of The ....., and made oath to the truth of the foregoing certificate, by them signed, before me,

.....,

Justice of the Peace.
Notary Public.

FORM XXV.

Certificate of Acceptance of Amendment to Charter.

This is to certify, that at a meeting of The*.....
..... of ....., legally warned and held for the purpose on the ..... day of....., 19...., the resolution amending the charter of said

* Stockholders, incorporators, members.

corporation, passed at the January session of the general assembly, 19...., was accepted by a† ..... vote of the* ..... present, of which vote the following is a copy:

.....
.....
.....

Dated at ....., this ..... day of ....., 19....

....., President.

....., Secretary.

FORM XXVI.

Articles of Association for Corporations Without Capital Stock.

Be it known, That we, the subscribers, do hereby associate ourselves as a body politic and corporate, pursuant to the statute laws of the State of Connecticut regulating the formation and organization of corporations without capital stock, and the following are our articles of incorporation:

ARTICLE 1. The name of said corporation shall be The ..... Incorporated

ARTICLE 2. The purposes for which said corporation is formed are the following, to wit:

.....
.....

† Unanimous, two-thirds, majority.
* Stockholders, incorporators, members.

ARTICLE 3. The said corporation is located in the town of ....., county of ....., and State of Connecticut.

Dated at ....., this ..... day of ....., 19....

.....,
.....,
.....,
.....,

Names of Subscribers.

STATE OF CONNECTICUT, } *ss.*: ..... 19....
County of ..... }

Then and there personally appeared ....., signers of the foregoing instrument, and acknowledged the same to be their free act and deed, before me,

.....,

Justice of the Peace.
Notary Public.

FOREIGN CORPORATIONS.

FORM XXVII.

Officers' Statement.

Statement by the .....

In accordance with the provisions of an act of the General Assembly of the State of Connecticut, entitled "An Act concerning corporations," being Chapter 194 of the Public Acts of 1903, The ....., a corporation organized under the laws of the State of ....., does hereby certify and set forth:

First. That the paper hereto attached is a true and correct copy of its charter or certificate of organiza-

tion filed with the secretary of state of the State of ..... and properly certified by the said secretary.

Second. The total amount of capital stock said company is authorized to issue is ..... dollars, and the amount actually paid in is ..... dollars, of which amount ..... dollars has been paid in in cash, and ..... dollars has been paid as follows:

.....

.....

Third. The character of the business which said corporation is to transact in this state is .....

.....

Dated at ....., this ..... day of ....., 19....

....., President.

....., Treasurer.

.....,
.....,
.....,
.....,

A majority of the Directors.

STATE OF ....., County of ..... } *ss.:* ..... 19....

Personally appeared ....., President, ... Treasurer, and ....., a majority of the directors of The ....., and made oath to the truth of the foregoing statement, by them signed, before me,

....., Notary Public.

FORM XXVIII.

Certificate of Appointment of Secretary of the State as Attorney.

Know All Men by these Presents,

That ....., a corporation duly organized under the laws of the State of ....., and located and doing business at ....., acting herein by its ....., duly authorized thereunto, by these presents makes, ordains, constitutes, and appoints the secretary of the state of Connecticut, and his successor in office, its true and lawful attorney upon whom all lawful process in any action or proceeding against the said corporation, in the State of Connecticut, including the process of foreign attachment, may be served.

And said corporation hereby agrees that any lawful process against it which is served on said attorney, shall be of the same legal force and validity as if served on the corporation, and that said appointment shall continue in force as long as any liability remains outstanding against it in this state.

In Witness Whereof, The said corporation has caused its corporate name and seal to be hereto affixed by* ..... its* ....., thereunto duly authorized this ..... day of ....., 19....

.....

STATE OF CONNECTICUT, } *ss.:* ..... 19....
County of ..... }

Personally appeared* ..... of said corporation, signer and sealer of the above instrument, he being thereunto duly authorized by the corporation above named, and acknowledged the same to be his

* Insert name and title of office.

free act and deed, and the free act and deed of said corporation, before me,

.....,

Notary Public.

FORM XXIX.

Annual Report.

We, ... President, and .... Treasurer, of The ....., a corporation organized under and pursuant to the laws of the State of ....., relating to corporations, and having its principal place of business in Connecticut in the town of ....., in compliance with the requirements of the laws of the State of Connecticut, hereby certify as of the first day of (January—July), 19....

First. That the name, residence, and post office address of each of its officers and directors were as follows:

Name.	Residence.	P. O. Address.
President,	.....	.....
Vice-President,	.....	.....
Treasurer,	.....	.....
Assistant Treasurer,	.....	.....
Secretary,	.....	.....
Assistant Secretary,	.....	.....
Directors,	.....	.....

Second. That the amount of its outstanding capital stock which had not been paid for in full was ..... dollars, and the amount due thereon was ..... dollars.

Third. The location of its principal office in Connecticut was No. ..... Street, ...

Dated at ....., this ..... day of ....., 19....

.....,
President.

.....,
Treasurer.

STATE OF ....., } ss.: ..... 19....
County of ..... }

Personally appeared, ..., President, and ....., Treasurer, of The ....., and made oath to the truth of the foregoing certificate, by them signed, before me,

.....,
Notary Public.

FORM XXX.

Statement of the

....., a corporation organized under the laws of the State of ....., and operating ..... mines, oil wells.

I.

1. Amount of authorized capital stock.
2. Amount of capital stock issued.
3. Amount of capital stock held by corporation.
4. Amount of capital stock issued in payment of property.
5. Amount of capital stock sold for cash.
6. Amount of cash received in payment for stock.

7. Value and description of property received in payment for stock.
8. Amount of debts or liabilities in
   a. Bonds, stating rate of interest, and time at which bonds fall due.
   b. Other indebtedness.
9. Amount of cash on hand.
10. Amount of credits and estimated value thereof:
   a. Notes.
   b. Bills receivable.
   c. Accounts receivable.
11. Present value of property of corporation.
12. Number and amount of dividends declared.
13. Rate of last dividend, and date when same was declared and paid.

II.

1. Location of properties owned (to be accompanied by plans of the same).
2. Amount of work done on the property, showing extent of development.
3. Amount of cash expended for improvements on said properties.
4. Description of plant and machinery, and their present condition.

Dated at ....., this ..... day of ....., 19....

.....,
President.

.....,
Treasurer.

.....,
Secretary.

STATE OF ....., } ss.: ..... 19....
County of ..... }

Personally appeared ....., President, ... Treasurer, and ....., Secretary, of the .... and made solemn oath to the truth of the foregoing statement, by them signed, before me,

.....,

Notary Public.

Fees and Taxes to be Paid.

TO THE TREASURER OF THE STATE.

The tax on the total authorized capital stock, whether original or increased stock, is as follows:

On each $1,000 up to $5,000,000..... 50 cents
On each $1,000, exceeding $5,000,000..... 10 cents
But no payment less than $25.00

There is no tax on the capital stock of foreign corporations.

Corporations without capital stock, on filing the certificate of incorporation, pay to the state treasurer $10.00.

FOR FOREIGN CORPORATIONS.

On filing copy of charter or certificate of organization $10.00
On filing statement required by § 4811... 5.00
On filing other certificates, same fees as for domestic corporations.

Note.—Section 4809 provides that one "page" shall be 280 words.

INDEX

INDEX.

A.

PAGE

Accommodation paper, acceptance unauthorized..... 17
drafts, corporation cannot accept..... 17
Action, limitation of against stockholder for unpaid assessments 40
removal of, from state courts..... 6
Additional provisions, certificate of incorporation may contain 108
Additional stock, issue of, how authorized..... 115
special meeting for..... 115
certificate of issue of..... 115
form of 166
Admission of corporate capacity, pleading..... 14
Advertisement, service of process by..... 7
Agent, appointment of..... 14
directors are of corporation.....21, 25
fraud of, estops corporation, when..... 139
in procuring subscription.....37, 39, 41
knowledge of, affects corporation..... 139
to execute deed, appointment of..... 14
under corporate seal..... 14
Agreement of contractor to take stock as pay for work, not a subscription..... 114
Agreement to dissolve..... 67
form of 179
Agreement to transfer prevented by attachment..... 45
Alteration and repeal of charter..... 88
Alteration and repeal of by-laws, how made..... 47
Alteration of charter,
fundamental must be assented to by stockholders.... 49
Amendment of certificate of incorporation before commencing business..... 116
Amendment of certificate of incorporation..... 117
Amendments to charter..... 98
not binding, when..... 98
not operative until..... 98

Amendments to charter (continued). PAGE
do not relieve from liability when 38
form of acceptance of 184
Annual meeting, when and where held 47
failure to hold 50
stockholders may call, when 50
Annual reports 74
by whom made 74, 128
corporation need not file, when 76
failure to file *prima facie* evidence of forfeiture, when 77
foreign corporation to make, except when 128
form of 172
must show what 75
penalty for failure to file 76, 129
how collected 76
president and treasurer to make 75
of building and loan commissioner concerning investment companies 81
of directors to stockholders 26
remission of forfeiture for failure to file 78
secretary may sign, when 76
to general assembly to be made, when 98
Annual returns by express companies 79
contain what 79
penalty for failure to file 80
to be filed, when and where 79
Appeal from judgment dissolving corporation to be taken, when 65
Application of Corporation Act of 1901 and 1903 ..... 1, 100
no effect on special charter, except when 1
for receiver; orders of judge 53
Appraisal and purchase of minority stock interest 65
of stock of aggrieved stockholder 65, 66
Articles of Association; form of 185
Assets, distribution of forbidden, except 18
see Property.
Assignment, general, passes equitable title to stock 47
of stock duly executed and registered as transfer 46
Attaching creditor, beneficial owner of stock against 47
books final for, when 47

Attaching creditor (continued). PAGE
entitled to costs on appointment of receiver, when.... 57
see Creditor.
Attachment, of corporate rights or shares..... 12
how made..... 12
dissolved by appointment of receiver..... 56
in another state not dissolved by appointment of receiver..... 64
stock not transferred is open to.....12, 47
Attorney for foreign corporation..... 125
general, duty as to delinquent foreign corporation.... 127
Authority of agent..... 14
of receiver..... 54

B.

Banking, penalty..... 102
private restricted..... 102
report to bank commissioners..... 103
Bankruptcy, appointment of receiver may be act of.... 64
does not prevent dissolution by state court..... 64
powers of trustee in, to call in instalments..... 37
Bond, on issue of new certificate discretionary with directors..... 43
Books determine who are stockholders..... 42
final for attaching creditor..... 47
not sole evidence of corporate acts..... 140
right of stockholder to inspect..... 42
receiver's right to..... 54
transfer as collateral security to show..... 45
Building and loan commissioner, annual report by, concerning investment companies..... 83
supervision of investment companies..... 81
Business, certificate of incorporation must state..... 107
change of nature of, vote for..... 117
certificate of..... 117
form of..... 161
kinds of, prohibited..... 106
run at a loss not *per se* ground for receiver..... 64
surrender of rights before beginning..... 116
voluntary dissolution after beginning..... 67

Business (continued). PAGE
when to commence..... 112
By-laws adopted at first meeting..... 110
alteration, amendment, and repeal, provisions *de*.....
26, 47, 111
directors cannot repeal restrictive..... 112
directors may make and repeal, except when..... 112
must be reasonable..... 111
nature of..... 5
form of 151, 152, 153

C.

Call for first meeting; waiver.....109, 110
Calls for meetings to contain what..... 47
for special meeting 49
by whom may be made..... 49
on failure to hold annual meeting..... 50
stock subscription 34
Cancellation of stock subscription, when not allowable.... 35
Capacity of corporation, when admitted, pleading..... 14
Capital, dividends, when impaired..... 18
impairment of 18, 22
new stock and stock rights as..... 94
Capital stock, classes authorized..... 100
amount of, certificate of incorporation to state..... 107
not less than $2,000..... 107
amount of with which business begun, not less than
$1,000 108
fraud in procuring subscription to.....37, 39, 41
increase, stockholders may.....92, 117
instalments, directors to call..... 34
creditor may call.....36, 37, 38, 41
par value of shares not less than $25..... 107
property accepted in payment for..... 33
purchase by corporation of its own, how made..... 31
to be reported, when..... 32
stockholders' obligations as to.....36 to 41
tax on 99, 104, 105
increase 99, 104, 105
amount of 192

Capital stock (continued). PAGE
trust fund for creditors, how far regarded as..... 22
see Additional Stock; Increase; Instalments; Reduction; Preferred Stock.
Certificates, approval of, by secretary of state..... 104
certified copies, how attested..... 104
as evidence, *prima facie*, of existence..... 109
filed with secretary of state..... 104
town clerk..... 104
for fractional shares or rights prohibited..... 41
for forfeiture..... 78
reinstatement, how obtained..... 78
revocation of, when by secretary of state..... 78
forms of, see Appendix..... 143
recorded, where..... 104
secretary of state to furnish forms for..... 90
signed and sworn to, by whom..... 104
Certificate of change of location..... 117
directors to make..... 117
to state what..... 117
to be approved..... 104
form of..... 162
change of name..... 117
to be approved..... 104
form of..... 160
change of nature of business..... 117
to be approved..... 104
form of..... 161
consolidation and merger..... 119
to be approved..... 104
form of..... 173
dissolution.....71, 72
to be approved..... 104
form of.....181, 183
incorporation, to show what.....107, 108
to be sworn to..... 104
approved..... 104
certified copy to be filed with town clerk..... 104
form of..... 144
definition of purpose..... 108

Certificate of incorporation (continued). PAGE
may contain additional provisions..... 108
statements in as estoppel of signers..... 108
void when 110
Certificate of increase of capital stock.....93, 127
to be approved..... 104
form of 164
issue of additional stock..... 115
to state what..... 115
to be approved..... 104
form of 166
organization, when made..... 112
to state what..... 113
to be approved..... 104
void unless filed when..... 110
form of 155
publication of reduction of stock..... 23
to show what.....23, 117
to be approved..... 104
form of 170
purchase of own stock..... 32
to state what..... 32
form of 171
reduction of capital stock.....23, 96, 117, 127
to be approved.....96, 104
form of 168
stockholders' agreement to dissolve.....71, 72
to be approved..... 104
form of 179
vote to dissolve.....71, 72
to be approved.....72, 104
form of 180
surrender of rights..... 116
to be approved.....104, 116
form of 178
Certificate of stock not issued till full paid.....32, 35
issue of, on reduction of capital.....23, 24
lost, new certificate..... 43
Certificate when corporate existence ends by limitation.... 73
Changes in certificate of incorporation..... 117

Changes in certificate of incorporation (continued). PAGE
certificate of, to be filed 117
not valid unless approved how 117
what changes may be made 117
Changes in by-laws 47, 48
Change of name 117
form of certificate of 160
by superior court of specially chartered corporation ... 97
location 117
form of certificate of 162
nature of business 117
form of certificate of 161
Charter, amendments to 88, 98
not binding unless 98
articles of association stand in place of 4
binding on stockholders when 49
conditions, courts determine compliance with 113
contract relations under 89
extent of powers under 15
provisions of, presumptions *de* knowledge 36
repeal of 88
revoked as license, when 89
void, when 97
without organization void after two years 97
Citizen, corporation "citizen" of state of incorporation ... 3
not a "citizen" within Art. IV, Sec. 2, Cl. 1 of U. S. Constitution 3
Claims, action to enforce to commence when 70
against corporation as payment for property and franchises 65
application to court for order limiting presentation .. 69
barred when 70
barred unless presented within time limited 53
disallowed, are barred unless 70
limitation for presentation of, on winding up 69, 70
notice of presentation of to contain what 68, 69
notice of rejection of 70
on winding up to be presented 69, 70
Section 33 not to prevent establishment of 71
time limited for presentation of 53

Claims (continued). PAGE
to be paid as soon as practicable..... 69
when barred of corporation without capital stock.... 133
see Creditor.
Clerk, temporary, chosen at first meeting..... 110
Collateral security:
transfer of stock as, to be entered in books.....44, 45
Collection of taxes on shares..... 84
Committees, directors may appoint.....25, 26
Commencement of business..... 112
see Business.
Compromise, power of corporation *de* stockholder's liability 37
valid defense against corporation and creditors when.. 37
Consolidation, certificate of *prima facie* evidence..... 119
debts of merging corporations attach to new corporation 120
exemption from franchise tax on..... 120
right to enforce agreement to pay debts after..... 120
Consolidation and merger of similar corporations.....117, 118
directors' agreement for..... 118
stockholders to vote on..... 118
rights of merged corporations after..... 119
creditors, after 120
existence of separate corporations continues..... 120
remedy of aggrieved stockholder..... 121
certificate of, how made and filed..... 119
form of 173
Contract, charter is a..... 89
rights flowing from charter as..... 89
Contracts beyond corporate power.....15, 16, 17
of directors with corporation, voidable..... 29
prior to organization..... 114
Corporate capacity, pleading..... 139
existence, duration of..... 4, 5
begins when 109
evidence of 109
joint stock company..... 138
continued for certain purposes..... 74
decree of court, effect of..... 74
ending by limitation..... 73

Corporate capacity (continued). PAGE
name, character of 1
Corporation, by-laws to be consistent with law.....5, 111
de facto 114, 115
may hold and convey real estate.....4, 115
definition of..... 3, 4
de jure..... 3, 4
dissolution, power *de*..... 5
duration of..... 4, 5
existence begins before it can begin business when... 114
implied powers of..... 5
lien of, on stock..... 44
may be stockholder in other except when..... 26
may call special or annual meetings, when.....49, 50
may not acquire and hold its own stock except when..31, 32
form for purchase of own stock..... 171
may not vote upon its own stock..... 31
need not file annual reports, when..... 76
powers of court to revive after existence ended..... 74
property of, location for purposes of taxation.....3, 86
similar may consolidate 117
principal place of business..... 3
Act of 1901, application of..... 100
powers under 100
certificates, copies as *prima facie* evidence..... 138
as garnishee 8, 9, 10, 11
may be stockholder 31
holding stock, may be represented by director..... 26
Corporations without capital stock:
assessments, how authorized 136
limitation on 136
vote required for..... 136
by-laws authorized 136
certificate of incorporation..... 130
amendment of 131
approval required 130
filing and record of..... 130
signed, how 130
terms of 130
corporate existence, how proved..... 131

Corporations without capital stock (continued). PAGE
creditors of not to interfere with control..... 134
dissolution of 132
fines, may impose 136
membership, succession 131
organization, how effected..... 130
powers conferred by Section 3, to have..... 131
property, powers concerning..... 131
receivership of 134, 135
Creditor, agreement of stockholders against, invalid..... 37
action by, to enforce claim.....70, 134
books, final for, when.....46, 47
claims of, barred when.....70, 134
directors liable to, when 18, 19
inconsistent rights of, to renounce..... 63
information as to stockholder..... 80
instalments may be called by.....36, 37
limitation of time for claims of.....53, 68, 69, 70
may apply for receiver when.....71, 134
may compel payment of instalment..... 37
may sue subscribers when..... 36
must reduce claims to judgment..... 36
notice to, of rejection of claim.....70, 134
not to interfere with control of property.....71, 134
ownership of stock against.....46, 47
release of stockholder's liability invalid as against.. 39

D.

Damages, for misrepresentations inducing purchase of stock 41
Debtor, to corporation, stock may be sold how..... 45
De jure, de facto corporation.....3, 4, 114, 115
liabilities of 114, 115
de facto may hold real estate..... 115
Decree, binds stockholders 74
Deed, agent's authority to execute.....14, 15
corporate seal to be attached..... 14
Definition of purpose..... 108
Directors, acceptance of accommodation paper by..... 17
accountable for conduct.....28, 29
acts of majority binding.....25, 27

Directors (continued). PAGE
quorum authorized 25
agents of corporation 21, 25
agreements of, when not binding 29
for consolidation 118
annual reports of, to stockholders 26
appoint officers, president, secretary, treasurer 115
committees, also executive 26
bond on issue of new stock certificates discretionary with 43
by-laws, cannot repeal restrictive 112
by representation 26
certificate by, of change of name 117
purpose 117
location 117
increase of stock 93, 127
issue of additional stock 115
reduction of stock 96, 117
publication of reduction 23
creation of preferred stock 95, 96
issue of preferred stock 117
certificate concerning dissolution to file 71, 73
contracts with corporation voidable 29
corporation holding stock may have 26
diligence and care required of 30
duties and obligations of 28, 29
breach of 28, 29, 30
dividend, cannot withhold, when declared 21, 27
discretion as to declaring 27
elected at first meeting 110
annually 25
eligibility 25
estopped after signing certificate 114
good faith required of 30
knowledge of, when binding 139
liable for mismanagement 29
voting dividend, when 18, 19, 30
liability is to corporation 29, 30
based on what 29, 30
loans to, restricted 24

Directors (continued). PAGE
majority constitute quorum..... 25
manage property and affairs..... 25
may appoint committees..... 26
may call in subscriptions..... 34
may make and repeal by-laws except when.....26, 27
meetings, by agreement.....28, 112
notice of regular not necessary..... 112
notice of special is necessary..... 112
notice of special to contain what..... 112
presumption of notice..... 28
record of first, form of..... 151
mortgage of property by..... 28
names, voting for dividend recorded..... 18
notice officially to, binding..... 28
number required by law..... 25
president, chosen from among..... 115
property valuation to be signed by.....32, 33
form of 158
fraud in 33
liability for 33
judgment of, final 33
quorum, majority is 25
remuneration, not entitled to..... 30
stockholder eligible as..... 25
of another corporation may be..... 26
suits against 29
may sue director for mismanagement when..... 29
trustees 28, 29
to wind up business..... 68
duties of as.....68, 69, 70
must be stockholders..... 25
elected annually 25
hold office how long..... 25
vacancies in board, may fill..... 25
votes for distribution of assets.....18, 19
votes of, presumed legal.....27, 28
Disclosure, examination of officer..... 138
by corporation as garnishee..... 9
Dissolution, application for, to superior court..... 69

Dissolution (continued). PAGE
approval of certificate of, terminates existence..... 72
bankruptcy does not prevent decree of..... 64
certificate of agreement for.....71, 72
form of 179
vote for 67
form of 180
final 72
form of 181, 183
confirmation of stockholders..... 67
consent to, dispenses with votes.....67, 68
decree of, affects what franchise..... 64
directors, trustees to wind up..... 68
by forfeiture, judgment of..... 5
not had collaterally..... 5
limitation of time for creditors.....68, 69, 70
meeting for 67
notice of 67
disuse of powers not..... 5
neglect of franchises not..... 5
but may be ground for..... 5
of foreign corporation only by state which created it.. 129
resignation of officers not..... 5
votes for 67
voluntary 67
Dissolution of corporations without capital stock..... 132
agreement of all members dispenses with votes..... 133
application to superior court..... 134
board of management trustees to wind up business.... 133
call for special meeting..... 132
certificates concerning dissolution 135
corporate existence to be continued for certain purposes 136
creditors not to interfere with control of property.... 134
duties of trustees..... 133
receiver may be appointed when.....134, 135
vote of members *de*.....132, 133
when claims barred..... 134
Dissolution of old corporations, provisions *de*.....72, 73
Dividends and distribution of assets.....18, 19

Dividends (continued). PAGE
cash belongs to life tenant....20, 21
declared, cannot be withheld.... 21
difference between stock and cash....20, 21
payable in stock of another corporation "cash dividend" when 22
penalty for unlawful declaration of.... 19
record of directors voting for....18, 19
refunded, if impairing capital....19, 21, 22
rendering corporation insolvent, liability of directors.. 19
restricted 18
stock, belongs to trust fund....19, 93, 94
stock, ownership of as between life-tenant and remainder-man 19, 20
see Stock Dividend.
Drafts, acceptance of accommodation, illegal.... 17
Duty of secretary of state when served with process.... 126
fee to be paid.... 126
record of all process to keep.... 126

E.

Election of officers.... 115
omission of, at annual meeting.... 50
directors 110
Electricity, manufacture for sale restricted.... 17
Eminent domain, company requiring right of, not authorized to do business by Corporation Act....105, 106
Employes, profits may be shared with.... 24
Equity of redemption, lien on, how enforced....44, 45
Estate, right of, to subscribe to new stock.... 19
may sell rights in increased stock.... 94
real, powers concerning.... 4
agent to convey....14, 15
seal requisite on conveyance....14, 15
Estoppel of corporation, agents, directors.... 114
of incorporators 108
of promoter when....38, 39
Evidence, agents' declarations....139, 140
burden on stockholder, when.... 114
certified copies of certificates are.... 138

Evidence (continued). PAGE
confessions of stockholders not 139
corporate existence 109
directors, terms of certificate estop 114
disclosure by officer of corporation 138
inadmissible to bind, when 139
inference *de* treasurer's continuation in office 140
intention may be proved by parol 140
knowledge of director affects corporation 139
president of corporation may testify as to intention .. 140
records of public offices and corporations 138
stock-books are, of title to stock 42
as, in all courts 42
right to vote 42
use of pronoun "we" or "I" as affecting contract .. 140
votes, legality of, presumed 27
Execution, levy of, on stock 13
as discharge of garnishee 12
of deeds, under corporate seal 14
Executive committee, powers of directors may be delegated to 26
Exemption, from franchise tax on consolidation 120
Express company, annual returns of, to contain what 79
penalty for failure to file 79
to be filed when and where 79

F.

Failure to file annual report 76
prima facie evidence of forfeiture when 77
remission of forfeiture for 78
Failure to hold meeting and elect officers 50
not to impair corporate rights when 50
Fees for filing certificates 137
First meeting, adjournments of 110
by-laws to be adopted at 110
called, how 109
directors to be elected at 110
notice of, published 109
form of 149
organization to be perfected at 110

First meeting (continued). PAGE
temporary clerk chosen 110
records by 150, 151
waiver of notice of 109
form of 150
Foreign attachment (see Garnishee Process) 8, 9
affidavit of treasurer or paymaster 9
citing garnishee to disclose 9
disclosure to officer 9
levy of execution on corporate stock 13
liability for non-appearance of garnishee 10
of corporate rights or shares 12
service of process 8, 9
on disbursing agent or paymaster 11
on bank or trust company 12
Foreign corporation, defined 122
acceptance of conditions by 124
annual report, form of 189
attorney, appointment of 125
evidence of 126
secretary of state to be 123, 125
service on 126
attorney, neglect to appoint, penalty 127
attorney-general, duty of, as to delinquent 127, 128
business, kinds of, prohibited, to 122
statement prior to doing, to contain what 125
what constitutes doing 124
can only be dissolved by state which created it 129
charter, copy of, to be filed where 125
penalty for failure to file 127
conditions, state may impose 124
legality of 124
executor or trustee, may act as, in this state 123
increase of stock by 127
certificate of, to be filed 127
license fee 192
exaction of, legal 124
not a "citizen" under XIVth Amendment 124
officers' statement, form of 186
power of state over 124

Foreign corporation (continued). PAGE
powers and limitations of 122
real estate, may hold 122
reduction of stock 127
certificate of, to be filed 127
service of process on, how made 126
duty of secretary of state 126
fee paid on 126
notice to corporation 126
record of, kept by secretary of state 126
statement before doing business 125
suits by and against, jurisdiction 6
what penalties apply to 129
Forfeiture, dissolution by, judgment for 5
failure to file annual report as *prima facie* evidence of 77
not available collaterally 5
not to affect certain societies and associations 78
remission of 78
Formation of corporation 105
number of persons requisite 105
prohibited, kinds of business 106
telephone exchange business may organize under Corporation Act 106
Forms for certificates, secretary of state to furnish 90
of certificates and records. See Appendix.
of transfer prescribed in by-laws 44
Fractional shares, certificates for, prohibited 41
how disposed of 41
Franchise, lease of, unauthorized when 69
neglect to use, effect of 5
sale of, by receiver 65
surrender of 116
tax on and exemption when 99, 104, 120
Fraud, agreement to release stockholder, as 37, 39
of agent, effect of 139
of directors for over-valuation of property 32
of promoters, effect of 115
incorporators 115

Fraud (continued). PAGE
effect of, on subscriber to stock..... 39
purchaser of stock..... 39
subscription obtained by, may be cancelled..... 39
Fraudulent resignation of officers, will not dissolve corporation 5

G.

Garnishee process, affidavit of non-indebtedness..... 9
demand on execution..... 13
disclosure 9
examination of officer..... 10
liability for non-appearance..... 10
service, how made..... 8, 9
scire facias 10
on bank or trust company..... 12
General Assembly, annual reports to, by corporations..... 98
power to amend and repeal..... 98
acceptance of amendment as giving..... 98
powers of corporations..... 4
limitations on 4, 15

I.

Impairment of capital, dividend causing..... 18
Incorporation, business prohibited.....105, 106
certificate of, amendments to.....116, 117
approval of, requisite..... 104
form of 147
Incorporators, authority of to receive subscriptions..... 109
to reject subscriptions..... 34
to manage affairs..... 109
estoppel by statements in certificate when..... 108
false representations to..... 138
fraud of..... 138
fiduciary relations of..... 137
powers of, begin when..... 109
end when 109
secret profits of, illegal..... 138
surrender of rights by..... 116

PAGE
Increase of capital stock, how made..... 92
of specially chartered corporations..... 92
rights resulting from to be sold when..... 41
certificate of vote to..... 93
form of 164
special meeting to vote on..... 92
see Additional Stock.
Increased capital stock instalments, how called..... 34
creditor may call.....36, 37
rights of estate in..... 94
rights of stockholder in.....93, 94
Indebtedness of stockholder, how collected..... 45
Indorsement passes property..... 14
Information for creditor of stockholder..... 80
penalty for refusing..... 80
Injunction by stockholders against directors 29
Insolvency, directors causing, by dividend, liable..... 19
existence not terminated by..... 5
powers of trustee to call in instalments..... 36
Instalments, directors' discretion in calling..... 34
form of vote to call..... 158
receiver may call in..... 36
sale of stock if not paid..... 45
subject to call when..... 36
to be returned if subscription not made in good faith 34
trustees may call in..... 36
see Increased Capital Stock.
Intention ascertained from parol evidence..... 140
Investment companies, bond issue, vote to limit..... 80
certified copy of vote to be filed..... 80
guaranty of debenture bonds..... 81
supervision of by building and loan commissioner.... 81
to be licensed by building and loan commissioner.... 83
vote duly filed as perpetual limitation..... 80
Issue of additional stock..... 115
certificate of, to show what..... 115
form of 166
directors may make..... 115
special stockholders' meeting for..... 115

PAGE

Insurance company business of, not authorized by Corporation Act..... 106

J.

Joint-stock company:
application of Act of 1901 and 1903 to.....1, 100
evidence of existence and capacity..... 138
Judgment, appeal from, when to be taken..... 65
dissolving corporation final as to whom..... 65
Jurisdiction of Federal courts, how determined..... 6
removal from state courts..... 6

L.

Laws, liability of stockholder under, of other states..... 40
Lease of franchise unauthorized..... 69
when corporation cannot take..... 16
Legal title, to stock unchanged until actual transfer..... 39
Levy of execution on stock..... 13
as discharge of garnishee..... 12
Liability, of Directors..... 18
for improper declaration of dividends..... 19
for conversion of funds.....29, 30
for mismanagement 29, 30
for assenting to purchase of stock rendering corporation insolvent..... 31
for causing insolvency by reducing stock..... 31
for fraudulent over-valuation of property..... 32
for negligence in making loan..... 30
to creditors..... 19
to refund dividends improperly declared..... 19
of Stockholder
ceases when..... 36
corporation's power to compromise..... 37
depends upon laws of state of incorporation..... 40
equal whether original subscriber or not..... 37
for improper receipt of assets..... 19
for unpaid stock..... 36
not relieved from by amendment to charter when, 37

Liability of stockholder (continued). PAGE
on shares irregularly issued and receipt of dividends thereon 39
release of, invalid as fraud on creditors 39
remains unchanged until actual transfer 39
to refund dividends improperly declared 19
to creditor of telephone, telegraph, electric light or power company, when 38
to creditor of corporation when 38, 39
under laws of other states 40
of officers for fraudulent misrepresentations 41
License to investment companies to do business in this state 83
Lien of corporation on stock 44
how enforced 44
on pledged stock not avoided when 44
Section 33 not to prevent foreclosure of when 71
Limitation, corporate existence ending by 73
statutes of, in action against stockholders begin to run when 40
of dividends 19
of time for presenting claims 68, 69, 70
on powers of trust companies 101
List, of stockholders open to inspection at meeting 42
Loans to officers and directors restricted 24
Location:
change of, how made 117
certificates required for 117
form of 162
limitation on power to change 92
meeting for purpose of 117
for purposes of Federal jurisdiction 3
how determined 3
in some town of this state 2
of corporate property for purposes of taxation 86
to be stated in certificate 107
Loss, that business run at, not *per se* ground for receiver .. 64
Lost stock certificate 43
bond required on issue of new when 43
new may be issued to replace 43

Lost stock certificate (continued). PAGE
superior court may order delivery of new when..... 43

M.

Machinery, mortgage on after-acquired valid..... 101
Majority of directors to sign certificates.....
71, 73, 113, 115, 117, 118
valuation of property by..... 33
constitute a quorum..... 25
of quorum may bind corporation..... 27
Majority of stockholders present a quorum unless otherwise provided..... 48
right of to rule, when implied..... 49
vote of, usual manner of giving direction..... 49
Mandamus to enforce calling of meeting..... 91
proper remedy, when..... 90
Manufacture of electricity restricted..... 17
Margin, statements on, part of stock certificate..... 35
Meetings:
annual, when and where called..... 47
failure to hold..... 50
failure to elect officers at..... 50
by-laws provide for..... 47
calls for, how made..... 47
first, call for and waiver of notice of..... 109
for adoption of by-laws..... 47
for change of by-laws..... 47
mandamus to enforce calling..... 91
method of calling to be followed..... 47
notice of, should state what..... 47
how given..... 47
to be issued by proper authority..... 48
presumed to be received when..... 48
pledgors of stock may vote at..... 51
president or secretary to call..... 47
president or stockholders to call special..... 49
procedure on failure to hold, unless otherwise provided 50
proxies legal at..... 51
limited except when..... 51
quorum, what constitutes..... 52

Meetings (continued). PAGE
special, how called 49
to vote on consolidation 118
stockholders may call special when 49
trustees may vote at 51
vote at, each share entitled to one 51
waiver of statutory notice of 49
see First Meeting; Directors' Meeting.
Merger. See Consolidation.
Mining and oil corporation, statement of 190
Minority, appraisal of interest and purchase of 65
majority cannot bind when 89
Misrepresentations, liability of officers for, inducing to buy stock 41
Mortgage, on after-acquired machinery valid 101
Section 33 not to prevent foreclosure of, when 71

N.

Name, certificate of incorporation to state 107
commences with word "The" 1
corporate character required 1
change of, how made 97, 117
certificate of, required 97, 117
form of 160
meeting for purpose of 117
rights not affected by 97
superior court may make 97
ends with word "Company," "Corporation" or "Incorporated" 1
fictitious trade names, business under 2
foreign name may be used in signing a contract 2
injunction against improper use of 2
must distinguish from other corporations 1
not to indicate that corporation is a bank, etc., except when 2, 102
of stockholders, books to contain 42
protected in use of 2
Name and location of corporations 1
National bank not exempt from state laws, when 103
Neglect, to pay instalments 44

Neglect (continued). PAGE
of use of franchise, effect of 5
of duties by officers, penalty 90
of secretary to make list of stockholders 42
Negligence of directors in making loan 30
Negotiable instruments, indorsement by corporation passes title to 14
New certificates, issue of, on reduction of capital 23
when old certificate lost 43
Nonresident, stock of subject to attachment 14
Notice, as affecting pledge 44
of first meeting, how given 109
to be published 109
form of 149
waiver of notice of 109
form of 150
of meetings; by-laws provide method for 47
to majority in certain cases sufficient 28
president or secretary to give 47
special, how given 49
stockholders may give, when 49
of call of instalments, how given 34
of sale of stock to satisfy instalment 45
to enforce lien for debts 45
presumption of, from records 28, 48
receipt of 48
to agent binds corporation 139
to creditors on winding up 68
to director acting officially, binding 139
to president binds corporation 139
Number of shares owned, stock books to show 42

O.

Officers, authority for election and appointment 4
appointment of 115
duration of office unless otherwise provided 50
examination of, in suit 138
loans to, restricted 24
liability for fraudulent misrepresentation 41
on failure to elect hold over 50

Officers (continued). PAGE
penalty for issuing certificate before tax paid..... 99
president and treasurer may be same person..... 115
president elected from and by directors..... 115
resignation ineffectual if fraudulent..... 5
removal of 112
secretary and treasurer may be same person..... 115
treasurer and secretary appointed..... 115
treasurer and secretary need not be directors..... 115
Offset of claim invalid when..... 38
Oil and mining corporation, statement of..... 190
Omission of annual meeting, effect of..... 50
report, liability for 76, 77, 78
Option of stockholders to take increased stock..... 93
of estate to take increased stock..... 94
Organization, certificate of..... 112
approval of 104, 113
to be filed within two years..... 110
certified copy of, evidence..... 113
directors to make..... 113
form of 155
irregularities of, no defense to promoter..... 38
to state what..... 113
uncompleted, subscribers are unincorporated persons associated in business..... 114
as creating a corporation *de facto*..... 115
effected at first meeting..... 110
effect of defects in..... 114
burden of proof of defects in, on stockholder..... 114
Organize, failure to in two years renders charter void.... 97
meaning of word..... 111
Other states, liability of stockholders under laws of..... 40

P.

Par value of shares not less than $25..... 107
Parol, condition to subscription invalid..... 39
see Evidence.
Partnership, formed by defective organization..... 114
liability of shareholder as a partner..... 114
property of, power of court over..... 55

Partnership (continued). PAGE
property, receiver entitled to control of..... 56
receiver of, when and how appointed..... 55
Penalty, action for does not survive death of officer..... 90
foreign corporation for failure to file annual report... 128, 129
for failure to file certificates and appoint attorney.... 127
for improper declaration of dividends..... 18
for refusal to permit inspection of list of stockholders, 42
for violation of Act of 1903..... 90
Person, corporation a "person" in Sec. 1 of XIVth Amendment, U. S. Constitution..... 3
Place of business. See Location.
Pleading, corporate capacity admitted unless denied..... 14
Pledge of stock, effected by delivery of certificate..... 43
as against others than pledgor by actual transfer only, 43
lien of corporation..... 44
of stock without transfer does not avoid corporation's lien 44
treasurer's receipts 43
Pledgors of stock may vote, when..... 51
Powers of attorney, copy of to be filed with corporation 43, 44
required in order to pledge stock.....43, 44
Powers of corporations..... 4
as to compromise of amount due from stockholder.... 37
contracts in excess of.....16, 17
extent of 15
implied of corporation..... 5
limitations on trust companies..... 101
not applicable when..... 101
motive of exercise may affect validity..... 16
not to be exceeded.....16, 17
restriction of 105, 106
to limit operations of foreign corporations..... 122
to transact business outside of state..... 18
Powers of corporation without capital stock..... 131
of court to revive corporation after existence ended.. 74
Power of incorporators. See Incorporators.
Preferred stock authorized how..... 95
as to assets..... 94

Preferred stock (continued). PAGE
as to dividends 94
certificates for, not issued until when 95
certificate of issue shows what 95
filed with secretary of state 95
form of 165
dividends may be cumulative 94
President, chosen by directors 115
director, must be 115
may call special meeting 49
of railroad company may testify as to intention of corporation without vote 140
on refusal to call special meeting stockholders may .. 49
shall call special meeting when 49
signs annual report 74
penalty for failure to file 76
Presumption of knowledge of stockholders 36
legality of meetings 48
votes 27
receipt of notice 48
Private banking restricted 102
Process, how served on corporation 6
in garnishee process 8, 11
on foreign corporation 125
service by advertisement or order 7
on nonresident in *quo warranto* 8
Profits may be shared with employes 24
Promoter. See Incorporator 115, 137
definition of 137
estopped to set up irregularities in organization when, 38
false representations made to, effect of 138
fiduciary relation of, toward corporation 137
irregularities of organization no defense to 38
liable for fraud on corporation 115, 138
must exercise good faith towards stockholders 138
secret profits may be recovered from, when 115
services of, valid consideration for corporation note .. 138
Property, accepted in payment for stock 33
creditors not to interfere with control of 71, 134

Property (continued). PAGE
directors' judgment as to value of final..... 33
liability for over-valuation..... 33
sign statement of value..... 33
form of statement..... 158
directors' fraud in valuation of..... 33
indorsement of corporation passes..... 14
mortgage of, by directors, valid..... 28
powers *de* real and personal of corporation..... 4
sale of, by receiver..... 65
to pay debts 15
to wind up 16
unauthorized, passes no title..... 16
sale of by trustees on winding up.....68, 69, 133
time for sale of, may be extended by court....68, 69, 134
title of trustee of insolvent debtor to.....44, 70
trust fund for creditors, when regarded as..... 22
Provisions of charter, stockholder presumed to know..... 36
Proxies for voting authorized..... 51
duration of 51
Publication of notice of first meeting..... 109
reduction of capital stock..... 23
stockholders' meeting for dissolution..... 67
to creditors on winding up..... 68
Purchase, by corporation, of own stock..... 31
restrictions upon 31
Purchaser, may reorganize corporation..... 65
may set up fraud as defense when..... 39
may sue officer for fraudulent misrepresentations.... 41
of corporation property and franchises, rights of.... 65
of originally issued shares virtually an original subscriber 37
Purpose of corporation, what kinds forbidden.....105, 106
certificate to specify 107
change of, how made..... 117
special meeting for 117
certificate required 117
form of 161
drafted carefully 108

Q.

PAGE
Quorum, of directors, what constitutes 27
of stockholders, what constitutes 48
Quo warranto, service on nonresident in case of 8

R.

Railroad company shares, condemnation of, authorized 103
statute authorizing condemnation is constitutional ... 103
Ratification dates back to execution of contract 114
of promoter's contract 114
Receipts for payment of subscription 32
issued by treasurer and secretary 32
subsequent payments entered on 33
surrender for certificate of stock 35
to state amount paid 33
number of shares full paid 33
under corporate seal 33
Receiver, appeal from order of court when 63
application for appointment of, when may be made ... 52
appointment by court 53
commencement of proceedings dissolves attachment when 56
entitles to costs when 57
may constitute an act of bankruptcy when 64
does not dissolve corporation 64
authority of 54
business run at loss not necessarily ground for appointment of 64
certificate of dissolution by 53
corporate existence continues under 64, 74
corporation without capital stock 134
court may appoint on application of creditor when, 71, 134
court may remove at pleasure and fill vacancy 56
duties of, on dissolution of corporation 53
duties of in general as to inventory 59
entitled to control of partnership property 56
general manager not appointed as, when 63
grounds of appointment of 52, 134
inconsistent rights of creditors 63
instalments may be called in by 54, 39

Receiver (continued). PAGE
may accept claims against corporation in payment when 65
may not appeal from order of removal..... 63
may recover dividends when.....21, 22
may sell property and franchises when..... 65
may sell rights to collect unpaid subscriptions..... 37
of corporations having property upon which members depend for support..... 62
of partnership when and how appointed..... 55
orders of judge of superior court as to..... 53
powers of 54
powers of court over partnership property..... 56
removal of, notice of petition for..... 63
right to books and property..... 54
sale of property and franchise by..... 65
temporary appointed, how and when.....57, 58
to file semiannual statements..... 55
to give bond with surety..... 54
vote of town necessary before application entertained when 63
wages paid by, court may determine..... 64
are preferred claims 56
Records to show valuation of property..... 33
Recording certificates 104
fees for 137
Reduction of capital stock, how made.....23, 96, 117
certificate required 23, 96, 117
form of 168
publication of 23
form of 170
of specially chartered corporation how made..... 96
of corporation organized under general laws, how made 117
rights resulting from to be sold when..... 41
record of stockholders voting for..... 23
stockholders' liability on..... 23
stock certificates after 23
Release, of stockholder's liability invalid when..... 39
Remedy of aggrieved stockholder by consolidation..... 121

Remedy (continued). PAGE
award becomes debt 121
entitled to receive payment for stock..... 121
must object in writing to consolidation..... 121
transfer of stock on payment of award..... 121
value of stock how ascertained..... 121
Removal of officers 112
of place of business, restriction on. (See Location).. 92
Remuneration, directors not entitled to..... 30
Repeal of charter..... 88
fundamental changes operating as..... 89
not effective, when 89
of by-laws, how made..... 47
power of, cannot be exercised unless reserved..... 89
Rescission, stockholder must act promptly to obtain..... 39
Residence of directors, certificates to state..... 113
Resignation, ineffectual if fraudulent, to dissolve corporation 5
vacancies caused by 112
Return to tax commissioner, inspection of limited..... 87
Rights, as capital 94
from increase or reduction of stock to be sold when.. 41
surrender of before beginning business..... 116
to subscribe to new stock, who entitled to..... 19

S.

Sale of property and franchises..... 65
claims against corporation as payment on..... 65
court may order when..... 65
entitles purchaser to what..... 65
time for may be extended by court..... 70
see Property.
Sale of stock, surplus belongs to stockholder..... 45
to enforce lien, how made..... 44
Savings bank, business of not authorized by Corporation Act 105
Seal and its equivalent..... 15
authorized 4
deed of corporation must be under..... 14
not affixed to vote appointing agent..... 14

PAGE
Secretary, and treasurer may be same person 115
annual report may sign when 76
appointment of 115
attachment of shares served on 12
certificate to attaching officer 12
as to consolidation 119
certificates signed by 35
duration of office 50
instructions to, see Appendix generally.
levy of execution left with 13
may refuse to permit transfer of stock when 46
notice of meetings given by 47
penalty for refusing information 42
for neglect or refusal to produce list 42
for refusing to permit inspection 42
service of process on 6, 7
garnishee process on 8
stock receipts countersigned by 32
to prepare list of stockholders 42
to produce and permit inspection of list 42
to record directors' valuation of property 33
names of directors voting for dividend 18
stockholders' names reducing stock 23
Secretary of state attorney for foreign corporations 125
certificates approved by 104
recorded by 137
copies of, furnished by 137
forms of, furnished by 90
fees on filing certificates 137
form of certificate of appointment 188
Section 24 not to revive certain corporations 50
Service of process 6
by advertisement 7
in case of foreign attachment 11
in case of attachment of stock 12
levy of execution on corporate stock 13
on bank or trust company as garnishee 12
on corporation 6
on disbursing agent or paymaster 11

Service of process (continued). PAGE
on nonresident in *quo warranto* 8
on secretary of state as attorney for foreign corporation 125, 126
Set-off invalid, when 38
Shares of stock, agreement to transfer passes no title when, 45
appraisal of minority interest..... 65
assignment, general gives equitable title..... 47
attachment of, how made..... 12
beneficial owner entitled to..... 47
books show who owners are..... 42
each entitled to one vote..... 51
issue of fractional, forbidden..... 41
legal title to, unchanged until actual transfer..... 39
levy of execution on..... 13
lien of corporation on for debts due it..... 44
may be transferred after appointment of receiver.... 64
notice of instalment on..... 34
to enforce lien 45
par value of not less than $25..... 107
personal property 44
pledged, how 43
proxies on 51
purchase by corporation of its own, restrictions on.... 31
sale to enforce lien, how made..... 44
stockholder aggrieved by merger..... 121
tax on, collection of..... 84
transfer of, on books only..... 44
by attorney 44
entry of credit insufficient..... 46
for collateral to so state..... 45
prevented by attachment 45
refusal to, by secretary when justified..... 46
registry passes title 39
perfects title 39
votes on 51
Special charter, increase of capital stock under..... 92
location of corporation organized under not to be changed 92
Special meetings, on failure to hold annual meeting..... 50

Special meetings (continued). PAGE
president may call 49
shall call, of corporation having capital stock when.. 49
shall call, of corporation having no capital stock when, 49
stockholders may call when..... 49
see Meetings.
State, power over national banks..... 103
to transact business outside of..... 18
Statement of foreign corporation..... 125
value of property by directors..... 33
Stock. See Additional Stock; Preferred Stock; Shares.
Stock, additional issue of..... 115
certificate of to contain what..... 115
how transferred 44
lien of corporation on..... 44
ownership of in other corporations, makes director or one executive officer eligible..... 26
personal property 44
Stock-books, evidence in all courts of this state..... 42
evidence of title to stock.....42, 44
open to examination of stockholder..... 42
prima facie evidence as to who are stockholders.... 42
to contain what 42
Stock certificates, certify number of shares..... 35
for fractions prohibited 41
marginal statements, part of..... 35
not issued till full paid..... 32
signed by whom 35
Stock dividend belongs to trust fund.....19, 20, 94
part of capital 19, 20, 94
who entitled to 19, 20, 94
Stockholders, aggrieved by consolidation..... 121
amendments affecting rights 40
application for appraisal of minority stock interest may make 65
attorney of, may sign waiver..... 49
books determine who are..... 42
open to examination of..... 42
bound by charter and general corporation law..... 36
burden of proof on, when..... 114

Stockholders (continued). PAGE
cannot set up irregularities in stock issue when..... 39
complaint to superior court in case of lost certificate.. 43
corporation may be, except when..... 31
decree of court binding on..... 74
directors not sued by, unless..... 29
elected by 110
eligibility as director 25
entitled to notice of sale of stock by corporation.... 45
entitled to surplus arising from sale..... 45
examination of books by, when and where..... 42
holders of treasurer's receipts are..... 33
increase of stock by.....92, 117
information to creditor of..... 80
inspection of books by..... 42
instalments due from 34
knowledge of what assumed..... 36
liability ceases, when..... 36
equal whether subscriber or not.....36, 37
under laws of other states..... 40
liable for unpaid assessments until actual transfer... 39
for unpaid stock 36
list of, secretary to make three days before meeting.. 42
open to inspection of..... 42
majority may direct policy.....48, 49
may avoid contracts with directors when..... 29
may call annual meeting when..... 50
may call special meeting when.....49, 50
may meet and act after appointment of receiver..... 64
may vote in person or by proxy..... 51
must act promptly to rescind subscription obtained by fraud 40
notice of meeting entitled to..... 47
by whom and how to be given..... 47
what to contain..... 47
obligations assumed by 36
original subscriber or purchaser presumed to know what 36
power to amend by-laws *de* increase of directors..... 111
preferred stock may vote to issue..... 95

Stockholders (continued). PAGE
vote to determine what 95
proxies for voting 51
purchase of minority interest by 65
quorum, what constitutes 48
ratification by, of contracts 29, 114
reduction of stock, by 23, 96, 117
liability for 23
rights and liabilities determined by law of state of incorporation 40
rights of, in increased stock 19, 20, 94
to dividends 19, 20
right to inspect annual report 26
right to mandamus, when 90
statutes of limitation in action against begin when .. 40
subscription enforced after insolvency 36
suits against directors 29
votes, one for each share unless otherwise provided .. 51
on changes in certificate of incorporation 117
on consolidation and merger 118
on dissolution 67
waiver of notice of proposed action may make 49
see Shares of Stock; Stock Dividend.
Subscriber, agreement limiting liability invalid 39
entitled to notice of call 34
obligations of 36
purchaser of originally issued shares virtually a 37
surrender of franchise by 116
unincorporated persons, when 114
word "subscriber" includes every shareholder 34
see Stockholder.
Subscription to stock, agreement to release invalid 39
as trustee binds individual 37
cancellation of, when not allowable 35
contractor's agreement to take stock not a 114
directors may call in 34
effect of invalid, on other 35
form of 148
fraud affecting 39
liability on, under foreign laws 40

Subscription to stock (continued). PAGE
may be cancelled when obtained by fraud..... 39
notice of call for payment of..... 34
not made in good faith, disallowed..... 34
parol condition annexed to, inadmissible..... 39
part payment entitles to treasurer's receipt..... 32
Succession, limited or perpetual of corporation..... 4
Superior court, appraisal to be filed with clerk of..... 65
appraisers of minority stock interest, may appoint.... 66
discretion of, *de* appointment, etc.....53, 66
duties of clerk of, as to appraisal..... 66
may extend time for sale of property..... 70
may limit time for presentation of claims..... 69
name of specially chartered corporation may change how 97
powers of *de* receivers, etc.....52, 53, 55, 56
to order delivery of new stock certificate when..... 43
to require proper bond from stockholder..... 43
Suits by and against corporations..... 4
against, jurisdiction 6
Summons, service of 6, 7
see Service of Process.
Surplus, stockholder entitled to, after sale to enforce lien 44
Surrender of rights before beginning business..... 116
form of certificate of..... 178

T.

Tax, amount of 99, 104
exemption from on consolidation..... 119
in lieu of other tax on franchise..... 105
on capital stock 99, 104
payments 192
shares, collection of 84
specially chartered corporation 99
Taxation, cash of foreign corporation in hands of receivers taxable here 85
corporate property where listed..... 87
deductions from list..... 86
list to contain what..... 87
location of corporate property for purpose of..... 87

Taxation (continued). PAGE
New Haven, property in of trading business, how assessed 86
of certain corporations 84
of corporate realty and stockholders' shares, not double 88
of property when stock not taxable..... 85
penalty for issuance of certificate before payment of, 99
property of traders listed where..... 86
returns to tax commissioner..... 87
inspection of limited..... 87
stockholders exempt when 87
Tax commissioner, returns to, inspection of limited..... 87
Telephone companies may organize under general laws.... 106
Section 62 of this Act *pro tanto* repealed..... 106
Temporary clerk chosen at first meeting..... 110
instructions to, see Appendix generally.
Title to stock, agreement to transfer does not pass..... 45
creditor, may ascertain from books.....46, 47
entry of credit on treasurer's book insufficient to pass, 46
equitable may pass by contract, sale, gift, etc..... 46
equitable, of trustee by general assignment..... 47
legal, determined by corporation books..... 46
see Shares of Stock.
Town clerk, certified copy of certificate of incorporation to be filed with.....104, 130
Transfer, actual, necessary to make pledge of stock..... 43
agreement to, ineffectual as against creditors..... 45
as against creditors must be actual..... 44
assignment of stock as..... 46
effectual when 46
for collateral security to so state..... 45
how made 44
legal title remains unchanged until actual..... 46
of shares after appointment of receiver..... 64
secretary may refuse to permit when..... 46
to one not consenting thereto withheld..... 46
Transfer books, open to examination when and where.... 42
original or duplicate as evidence in all courts..... 42
prima facie evidence as to who are stockholders..... 42

Transfer books (continued). PAGE
to contain what 42
Treasurer, appointment of 115
president and, or secretary and, may be same person.. 115
to issue receipts for stock payments..... 32
to sign annual report..... 74
penalty for failure..... 76
Treasurer's receipts, actual transfer necessary to effectuate pledge of, when..... 43
issue of new, to replace lost or destroyed..... 43
may be pledged by delivery..... 44
Trust, dividends on stock held in.....19, 20
Trust companies, limitation on powers of..... 101
business of, not authorized by Corporation Act..... 106
Trustees, directors as, to wind up business.....68, 69, 70, 133
duties of directors as.....68, 69, 70, 133, 134
in insolvency may hold stock when not actually transferred 44
may apply to superior court to limit time for claims, 69, 134
may call instalment 36
may subscribe to increased stock..... 94
may vote stock, when..... 51
notice of rejection of claim to give.....70, 134
powers cease on appointment of receiver.....71, 135
subscription for stock as, binds individual..... 37
title to property of insolvent debtor..... 70
to act under direction of court.....70, 134
see Receivers.

U.

Ultra vires contracts, when enforceable..... 17

V.

Vacancy in board directors may fill..... 25
Voluntary dissolution after commencing business, call for special meeting..... 67
claims barred unless..... 70
directors' duties as trustees.....68, 69, 70
directors' vote for 67

Voluntary dissolution (continued). PAGE
notice of special meeting..... 67
procedure on 68, 69, 70
stockholders' vote for 67
votes may be dispensed with by written agreement of all stockholders 67
Votes of stockholders, how taken..... 51
may be by proxy..... 51
one for each share unless otherwise provided.... 51
directors, presumed legal..... 27
forms of, see Appendix.

W.

Wages, court may determine amount when..... 64
preferred claim for 56
Waiver of notice of first meeting..... 109
special meeting 49
form of 150
jurisdiction 6
of statutory notice of proposed action, how made..... 49
What penalties apply to foreign corporations..... 129
Winding up of affairs. See Dissolution.
Withdrawal of assets restricted..... 18
of capital 18
what constitutes 22