

MAINE STATE LEGISLATURE

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SEVENTY-SEVENTH LEGISLATURE

HOUSE NO. 519

House of Representatives, March 5, 1915.

Ordered, That five hundred copies be printed and that the same be referred to the Committee on Judiciary.

Committee on Reference.

Presented by Mr. Sanborn of South Portland.

STATE OF MAINE

IN THE YEAR OF OUR LORD ONE THOUSAND NINE
HUNDRED AND FIFTEEN

AN ACT to Regulate Partnerships.

Be it enacted by the People of the State of Maine, as follows:

PART I.

PRELIMINARY PROVISIONS.

Section 1. [Name of Act.] This act may be cited as
2 Uniform Partnership Act.

Sect. 2. [Definition of Terms.] In this act, "Court"
2 includes every court and judge having jurisdiction in the
3 case.

"Business" includes every trade, occupation, or profes-
5 sion.

"Persons" includes individuals, partnerships, corporations,
7 and other associations.

“Bankrupt” includes bankrupt under the Federal Bankruptcy Act or insolvent under any state insolvent act.

“Conveyance” includes every assignment, lease, mortgage, or encumbrance.

“Real property” includes land and any interest or estate in land.

Sect. 3. [Interpretation of Knowledge and Notice.] (1)

A person has “knowledge” of a fact within the meaning of this act not only when he has actual knowledge thereof, but also when he has knowledge of such other facts as in the circumstances shows bad faith.

(2) A person has “notice” of a fact within the meaning of this act when the person who claims the benefit of the notice

(a) States the fact to such person, or

(b) Delivers through the mail, or by other means of communication a written statement of the fact to such person or to a proper person at his place of business or residence.

Sect. 4. [Rules of Construction.] (1) The rule that statutes in derogation of the common law are to be strictly construed shall have no application to this act.

(2) The law of estoppel shall apply under this act.

(3) The law of agency shall apply under this act.

(4) This act shall be so interpreted and construed as to effect its general purpose to make uniform the law of those states which enact it.

(5) This act shall not be construed so as to impair the
10 obligations of any contract existing when the act goes into
11 effect, nor to affect any action or proceedings begun or
12 right accrued before this act takes effect.

Sect. 5. [Rules for Cases not Provided for in this Act.]
2 In any case not provided for in this act the rules of law and
3 equity, including the law merchant, shall govern.

PART .II.

NATURE OF A PARTNERSHIP.

Sect. 6. [Partnership Defined.] (1) A partnership is an
2 association of two or more persons to carry on as co-owners
3 a business for profit.

(2) But any association formed under any other statute of
5 this state, or any statute adopted by authority, other than
6 the authority of this state, is not a partnership under his
7 act, unless such association would have been a partnership
8 in this state prior to the adoption of this act; but this act
9 shall apply to limited partnerships except in so far as the
10 statutes relating to such partnerships are inconsistent here-
11 with.

Sect. 7. [Rules for Determining the Existence of a Part-
2 nership.] In determining whether a partnership exists,
3 these rules shall apply:

(1) Except as provided by section 16 persons who are not
5 partners as to each other are not partners as to third persons.

(2) Joint tenancy, tenancy in common, tenancy by the en-
7 tireties, joint property, common property, or part ownership

8 does not of itself establish a partnership, whether such co-
9 owners do or do not share any profits made by the use of
10 the property.

(3) The sharing of gross returns does not of itself estab-
12 lish a partnership, whether or not the persons sharing them
13 have a joint or common right or interest in any property
14 from which the returns are derived.

(4) The receipt by a person of a share of the profits of a
16 business is *prima facie* evidence that he is a partner in the
17 business, but no such inference shall be drawn if such prof-
18 its were received in payment:

(a) As a debt by installments or otherwise,

(b) As wages of an employee or rent to a landlord,

(c) As an annuity to a widow or representative of a
deceased partner,

(d) As interest on a loan, though the amount of pay-
ment vary with the profits of the business,

(e) As the consideration for the sale of the good-will
of a business or other property by installments or otherwise.

Sect. 8. [Partnership Property.] (1) All property or-
2 iginally brought into the partnership stock or subsequently
3 acquired, by purchase or otherwise, on account of the part-
4 nership is partnership property.

(2) Unless the contrary intention appears, property ac-
6 quired with partnership funds is partnership property.

(3) Any estate in real property may be acquired in the
8 partnership name. Title so acquired can be conveyed only
9 in the partnership name.

(4) A conveyance to a partnership in the partnership name, though without words of inheritance, passes the entire estate of the grantor unless a contrary intent appears.

PART III.

RELATIONS OF PARTNERS TO PERSONS DEALING WITH THE PARTNERSHIP.

Sect. 9. [Partner Agent of Partnership as to Partnership Business.] (1) Every partner is an agent of the partnership for the purpose of its business, and the act of every partner, including the execution in the partnership name of any instrument, for apparently carrying on in the usual way the business of the partnership of which he is a member binds the partnership, unless the partner so acting has in fact no authority to act for the partnership in the particular matter, and the person with whom he is dealing has knowledge of the fact that he has no such authority.

(2) An act of a partner which is not apparently for the carrying on of the business of the partnership in the usual way does not bind the partnership unless authorized by the other partners.

(3) Unless authorized by the other partners or unless they have abandoned the business, one or more but less than all the partners have no authority to:

(a) Assign the partnership property in trust for creditors or on the assignee's promise to pay the debts of the partnership,

(b) Dispose of the good-will of the business,

(c) Do any other act which would make it impossible to carry on the ordinary business of the partnership,

(d) Confess a judgment,

(e) Submit a partnership claim or liability to arbitration or reference.

(4) No act of a partner in contravention of a restriction on his authority shall bind the partnership to persons having knowledge of the restriction.

Sect. 10. [Conveyance of Real Property of the Partnership.] (1) Where title to real property is in the partnership name, any partner may convey title to such property by a conveyance executed in the partnership name; but the partnership may recover such property unless the partner's act binds the partnership under the provisions of paragraph (1) of section 9, or unless such property has been conveyed by the grantee or a person claiming through such grantee to a holder for value without knowledge that the partner, in making the conveyance, has exceeded his authority.

(2) Where title to real property is in the name of the partnership, a conveyance executed by a partner, in his own name, passes the equitable interest of the partnership, provided the act is one within the authority of the partner under the provisions of paragraph (1) of section 9.

(3) Where title to real property is in the name of one or more but not all the partners, and the record does not disclose the right of the partnership, the partners in whose

20 name the title stands may convey title to such property, but
21 the partnership may recover such property if the partners'
22 act does not bind the partnership under the provisions of
23 paragraph (1) of section 9, unless the purchaser or his as-
24 signee, is a holder for value, without knowledge.

(4) Where the title to real property is in the name of one
26 or more or all the partners, or in a third person in trust for
27 the partnership, a conveyance executed by a partner in the
28 partnership name, or in his own name, passes the equitable
29 interest of the partnership, provided the act is one within the
30 authority of the partner under the provisions of paragraph
31 (1) of section 9.

(5) Where the title to real property is in the names of all
53 the partners a conveyance executed by all the partners passes
54 all their rights in such property.

Sect. 11. [Partnership Bound by Admission of Partner.]

2 An admission or representation made by any partner con-
3 cerning partnership affairs within the scope of his authority
4 as conferred by this act is evidence against the partnership.

Sect. 12. [Partnership Charged with Knowledge of or No-
2 tice to Partner.] Notice to any partner of any matter re-
3 lating to partnership affairs, and the knowledge of the part-
4 ner acting in the particular matter, acquired while a partner
5 or then present to his mind, and the knowledge of any other
6 partner who reasonably could and should have communicated
7 it to the acting partner, operate as notice to or knowledge of
8 the partnership, except in the case of a fraud on the part-

9 nership committed by or with the consent of that partner.

Sect. 13. [Partnership Bound by Partner's Wrongful
2 Act.] Where, by any wrongful act or omission of
3 any partner acting in the ordinary course of the business
4 of the partnership, or with the authority of his co-partners,
5 loss or injury is caused to any person, not being a partner in
6 the partnership, or any penalty is incurred, the partnership
7 is liable therefor to the same extent as the partner so acting
8 or omitting to act.

Sect. 14. [Partnership Bound by Partner's Breach of
2 Trust.] The partnership is bound to make good the loss:

(a) Where one partner acting within the scope of his ap-
4 parent authority receives money or property of a third per-
5 son and misapplies it; and

(b) Where the partnership in the course of its business
7 receives money or property of a third person and the money
8 or property so received is misapplied by any partner while
9 it is in the custody of the partnership.

Sect. 15. [Nature of Partner's Liability.] All partners
2 are liable

(a) Jointly and severally for everything chargeable to the
4 partnership under sections 13 and 14.

(b) Jointly for all other debts and obligations of the part-
6 nership; but any partner may enter into a separate obliga-
7 tion to perform a partnership contract.

Sect. 16. [Partner by Estoppel.] (1) When a person, by
2 words spoken or written or by conduct, represents himself,

3 or consents to another representing him to any one, as a
4 partner in an existing partnership or with one or more per-
5 sons not actual partners, he is liable to any such person to
6 whom such representation has been made, who has, on the
7 faith of such representation, given credit to the actual or
8 apparent partnership, and if he has made such representa-
9 tion or consented to its being made in a public manner he is
10 liable to such person, whether the representation has or has
11 not been made or communicated to such person so giving
12 credit by or with the knowledge of the apparent partner
13 making the representation or consenting to its being made.

(a) When a partnership liability results, he is liable as
15 though he were an actual member of the partnership.

(b) When no partnership liability results, he is liable joint-
17 ly with the other persons, if any, so consenting to the con-
18 tract or representation as to incur liability, otherwise sep-
19 arately.

(2) When a person has been thus represented to be a
21 partner in an existing partnership, or with one or more per-
22 sons not actual partners, he is an agent of the persons con-
23 senting to such representation to bind them to the same
24 extent and in the same manner as though he were a partner
25 in fact, with respect to persons who rely upon the represen-
26 tation. Where all the members of the existing partnership
27 consent to the representation, a partnership act or obligation
28 results; but in all other cases it is the joint act or obligation
29 of the person acting and the persons consenting to the rep-
30 resentation.

Sect. 17. [Liability of Incoming Partner.] A person admitted as a partner into an existing partnership is liable for all the obligations of the partnership arising before his admission as though he had been a partner when such obligations were incurred, except that this liability shall be satisfied only out of partnership property.

PART IV.

RELATIONS OF PARTNERS TO ONE ANOTHER.

Sect. 18. [Rules Determining Rights and Duties of Partners.] The rights and duties of the partners in relation to the partnership shall be determined, subject to any agreement between them, by the following rules:

(a) Each partner shall be repaid his contributions, whether by way of capital or advances to the partnership property and share equally in the profits and surplus remaining after all liabilities, including those to partners, are satisfied; and must contribute towards the losses, whether of capital or otherwise, sustained by the partnership according to his share in the profits.

(b) The partnership must indemnify every partner in respect of payments made and personal liabilities reasonably incurred by him in the ordinary and proper conduct of its business, or for the preservation of its business or property.

(c) A partner, who in aid of the partnership makes any payment or advance beyond the amount of capital which he agreed to contribute, shall be paid interest from the date of the payment or advance.

(*d*) A partner shall receive interest on the capital contributed by him only from the date when repayment should be made.

(*e*) All partners have equal rights in the management and conduct of the partnership business.

(*f*) No partner is entitled to remuneration for acting in the partnership business, except that a surviving partner is entitled to reasonable compensation for his services in winding up the partnership affairs.

(*g*) No person can become a member of a partnership without the consent of all the partners.

(*h*) Any difference arising as to ordinary matters connected with the partnership business may be decided by a majority of the partners; but no act in contravention of any agreement between the partners may be done rightfully without the consent of all the partners.

Sect. 19. [Partnership Books.] The partnership books shall be kept, subject to any agreement between the partners, at the principal place of business of the partnership, and every partner shall at all times have access to and may inspect and copy any of them.

Sect. 20. [Duty of Partners to Render Information.] Partners shall render on demand true and full information of all things affecting the partnership to any partner or the legal representative of any deceased partner or partner under legal disability.

Sect. 21. [Partner Accountable as a Fiduciary.] (1)
2 Every partner must account to the partnership for any bene-
3 fit, and hold as trustee for it any profits derived by him
4 without the consent of the other partners from any transac-
5 tion connected with the formation, conduct, or liquidation
6 of the partnership or from any use by him of its property.

(2) This section applies also to the representatives of a
8 deceased partner engaged in the liquidation of the affairs of
9 the partnership as the personal representatives of the last
10 surviving partner.

Sect. 22. [Right to an Account.] Any partner shall have
2 the right to a formal account as to partnership affairs:

(a) If he is wrongfully excluded from the partnership
business or possession of its property by his co-partners,

(b) If the right exists under the terms of any agree-
ment,

(c) As provided by section 21,

(d) Whenever other circumstances render it just and
reasonable.

Sect. 23. [Continuation of Partnership Beyond Fixed
2 Term.] (1) When a partnership for a fixed term or par-
3 ticular undertaking is continued after the termination of such
4 term or particular undertaking without any express agree-
5 ment, the rights and duties of the partners remain the same
6 as they were at such termination, so far as is consistent with
7 a partnership at will.

(2) A continuation of the business by the partners or such
9 of them as habitually acted therein during the term, without
10 any settlement or liquidation of the partnership affairs, is
11 prima facie evidence of a continuation of the partnership.

PART V.

PROPERTY RIGHTS OF A PARTNER.

Sect. 24. [Extent of Property Rights of a Partner.] The
2 property rights of a partner are (1) his rights in specific
3 partnership property, (2) his interest in the partnership,
4 and (3) his right to participate in the management.

Sect. 25. [Nature of a Partner's Right in Specific Part-
2 nership Property.]

(1) A partner is co-owner with his partners of specific
4 partnership property holding as a tenant in partnership.

(2) The incidents of this tenancy are such that:

(a) A partner, subject to the provisions of this act
and to any agreement between the partners, has an equal
right with his partners to possess specific partnership prop-
erty for partnership purposes; but he has no right to pos-
sess such property for any other purpose without the con-
sent of his partners.

(b) A partner's right in specific partnership property
is not assignable except in connection with the assignment
of the rights of all the partners in the same property.

(c) A partner's right in specific partnership property
is not subject to attachment or execution, except on a claim
against the partnership. When partnership property is at-

tached for a partnership debt the partners, or any of them, or the representatives of a deceased partner, cannot claim any right under the homestead or exemption laws.

(d) On the death of a partner his right in specific partnership property vests in the surviving partner or partners, except where the deceased was the last surviving partner, when his right in such property vests in his legal representative. Such surviving partner or partners, or the legal representative of the last surviving partner, has no right to possess the partnership property for any but a partnership purpose.

(e) A partner's right in specific partnership property is not subject to dower, curtesy, or allowances to widows, heirs, or next of kin.

Sect. 26. [Nature of Partner's Interest in the Partnership.] A partner's interest in the partnership is his share of the profits and surplus, and the same is personal property.

Sect. 27. [Assignment of Partner's Interest.] (1) A conveyance by a partner of his interest in the partnership does not of itself dissolve the partnership, nor, as against the other partners in the absence of agreement, entitle the assignee, during the continuance of the partnership, to interfere in the management or administration of the partnership business or affairs, or to require any information or account of partnership transactions, or to inspect the partnership books; but it merely entitles the assignee to receive in ac-

10 cordance with his contract the profits to which the assigning
11 partner would otherwise be entitled.

(2) In case of a dissolution of the partnership, the assignee
13 is entitled to receive his assignor's interest and may require
14 an account from the date only of the last account agreed to
15 by all the partners.

Sect. 28. [Partner's Interest Subject to Charging Order.]

(1) On due application to a competent court by any judg-
3 ment creditor of a partner, the court which entered the
4 judgment, order, or decree, or any other court, may charge
5 the interest of the debtor partner with payment of the un-
6 satisfied amount of such judgment debt with interest thereon;
7 and may then or later appoint a receiver of his share of the
8 profits, and of any other money due or to fall due to him
9 in respect of the partnership, and make all other orders, di-
10 rections, accounts and inquiries which the debtor partner
11 might have made, or which the circumstances of the case
12 may require.

(2) The interest charged may be redeemed at any time
14 before foreclosure, or in case of a sale being directed by the
15 court may be purchased without thereby causing a disso-
16 lution:

(a) With separate property, by any one or more of
the partners, or

(b) With partnership property, by any one or more
of partners with the consent of all the partners whose in-
terests are not so charged or sold.

(3) Nothing in this act shall be held to deprive a partner
23 of his right, if any, under the exemption laws, as regards
24 his interest in the partnership.

PART VI.

DISSOLUTION AND WINDING UP.

Sect. 29. [Dissolution Defined.] The dissolution of a
2 partnership is the change in the relation of the partners
3 caused by any partner ceasing to be associated in the carry-
4 ing on as distinguished from the winding up of the busi-
5 ness.

Sect. 30. [Partnership Not Terminated by Dissolution.]
2 On dissolution the partnership is not terminated, but con-
3 tinues until the winding up of partnership affairs is com-
4 pleted.

Sect. 31. [Causes of Dissolution.] Dissolution is caused:

(1) Without violation of the agreement between the part-
3 ners,

(a) By the termination of the definite term or partic-
ular undertaking specified in the agreement,

(b) By the express will of any partner when no def-
inite term or particular undertaking is specified,

(c) By the express will of all the partners who have
not assigned their interests or suffered them to be charged
for their separate debts, either before or after the termina-
tion of any specified term or particular undertaking,

(d) By the expulsion of any partner from the business
bona fide in accordance with such a power conferred by
the agreement between the partners;

(2) In contravention of the agreement between the partners, where the circumstances do not permit a dissolution under any other provision of this section, by the express will of any partner at any time;

(3) By any event which makes it unlawful for the business of the partnership to be carried on or for the members to carry it on in partnership;

(4) By the death of any partner;

(5) By the bankruptcy of any partner or the partnership;

(6) By decree of court under section 32.

Sect. 32. [Dissolution by Decree of Court.] (1) On application by or for a partner the court shall decree a dissolution whenever:

(a) A partner has been declared a lunatic in any judicial proceeding or is shown to be of unsound mind,

(b) A partner becomes in any other way incapable of performing his part of the partnership contract,

(c) A partner has been guilty of such conduct as tends to affect prejudicially the carrying on of the business,

(d) A partner wilfully or persistently commits a breach of the partnership agreement, or otherwise so conducts himself in matters relating to the partnership business that it is not reasonably practicable to carry on the business in partnership with him,

(e) The business of the partnership can only be carried on at a loss,

(f) Other circumstances render a dissolution equitable.

(2) On the application of the purchaser of a partner's interest under sections 28 or 29:

(a) After the termination of the specified term or particular undertaking,

(b) At any time if the partnership was a partnership at will when the interest was assigned or when the charging order was issued.

Sect. 33. [General Effect of Dissolution on Authority of Partner.] Except so far as may be necessary to wind up partnership affairs or to complete transactions begun but not then finished, dissolution terminates all authority of any partner to act for the partnership,

(1) With respect to the partners,

(a) When the dissolution is not by the act, bankruptcy or death of a partner; or

(b) When the dissolution is by such act, bankruptcy or death of a partner, in cases where section 34 so requires.

(2) With respect to person not partners, as declared in section 35.

Sect. 34. [Right of Partner to Contribution From Co-partners After Dissolution.] Where the dissolution is caused by the act, death or bankruptcy of a partner, each partner is liable to his co-partners for his share of any liability created by any partner acting for the partnership as if the partnership had not been dissolved unless

(a) The dissolution being by act of any partner, the partner acting for the partnership had knowledge of the dissolution, or

(b) The dissolution being by the death or bankruptcy of a
11 partner, the partner acting for the partnership had knowl-
12 edge or notice of the death or bankruptcy.

Sect. 35. [Power of Partner to Bind Partnership to Third
2 Persons After Dissolution.] (1) If the partnership is not
3 dissolved because it has become unlawful to carry on the
4 business, a partner cannot, after dissolution, bind the partner-
5 ship to third persons by any act which is not necessary to
6 wind up the partnership affairs or to complete transactions
7 then unfinished unless,

(a) Such third person, having had relations with the
partnership by which a credit was extended upon the faith
of the partnership, has had no knowledge or notice of the
dissolution; or

(b) Such third person, not having had business rela-
tions with the partnership by which a credit was extended
to the partnership, has no knowledge or notice of the disso-
lution, and the fact of dissolution has not been advertised
in a newspaper of general circulation of the place (or of
each place if more than one) at which the partnership busi-
ness was regularly carried on.

(2) The partnership is in no case bound by the acts of a
20 partner who has become bankrupt; but this provision does not
21 affect the liability of any person who, as declared by section
22 16, after bankruptcy, has represented himself, or consented
23 to another's representing him to be a partner of the bank-
24 rupt.

Sect. 36. [Effect of Dissolution on Partner's Existing Liability.] (1) The dissolution of the partnership does not of itself discharge the existing liability of any partner.

(2) A partner is discharged from any existing liability upon dissolution of the partnership by an agreement to that effect between himself, the partnership creditor and the person or partnership continuing the business; and such agreement may be inferred from the course of dealing between the creditor having knowledge of the dissolution and the person or partnership continuing the business.

(3) Where a person agrees to assume the existing obligations of a dissolved partnership, the partners whose obligations have been assumed shall be discharged from any liability to any creditor of the partnership who, knowing of the agreement, consents to a material alteration in the nature or time of payment of such obligations.

(4) The individual property of a deceased partner shall be liable for all obligations of the partnership incurred while he was a partner but subject to the prior payment of his separate debts.

Sect. 37. [Right to Wind Up.] Unless otherwise agreed the partners who have not wrongfully dissolved the partnership or the legal representative of the last surviving partner, not bankrupt, has the right to wind up the partnership affairs; provided, however, that any partner, his legal representative, or his assignee, upon cause shown, may obtain winding up by the court.

Sect. 38. [Rights of Partners to Application of Partner-
2 ship Property.] (1) When dissolution is caused in any
3 way, except in contravention of the partnership agreement,
4 each partner, as against his co-partners and all persons claim-
5 ing through them in respect of their interests in the partner-
6 ship, unless otherwise agreed, may have the partnership
7 property applied to discharge its liabilities, and the surplus
8 applied to pay in cash the net amount owing to the respective
9 partners. But if dissolution is caused by expulsion of a
10 partner, *bona fide* under the partnership agreement, and if
11 the expelled partner is discharged from all partnership lia-
12 bilities, either by payment or agreement under section 36
13 (2), he shall receive in cash only the net amount due him
14 from the partnership.

(2) When dissolution is caused in contravention of the
16 partnership agreement the rights of the partners shall be as
17 follows:

(a) Each partner who has not caused dissolution
wrongfully shall have,

I. All the rights specified in paragraph (1) of this
section, and

II. The right, as against each partner who has
caused the dissolution wrongfully, to damages for
breach of the agreement.

(b) The partners who have not caused the dissolution
wrongfully, if they all desire to continue the business in
the same name, either by themselves or jointly with others,

may do so, during the agreed term for the partnership and for that purpose may possess the partnership property, provided they secure the payment by bond approved by the court, or pay to any partner who has caused the dissolution wrongfully, the value of his interest in the partnership at the dissolution, less any damages recoverable under clause (2a II) of this section, and in like manner indemnify him against all present or future partnership liabilities.

(c) A partner who has caused the dissolution wrongfully shall have:

I. If the business is not continued under the provisions of paragraph (2b) all the rights of a partner under paragraph (1), subject to clause (2a II), of this section,

II. If the business is continued under paragraph (2b) of this section the right as against his co-partners and all claiming through them in respect of their interests in the partnership, to have the value of his interest in the partnership, less any damages caused to his co-partners by the dissolution, ascertained and paid to him in cash, or the payment secured by bond approved by the court, and to be released from all existing liabilities of the partnership; but in ascertaining the value of the partner's interest the value of the good-will of the business shall not be considered.

Sect. 39. [Rights Where Partnership is Dissolved for
2 Fraud or Misrepresentation.] Where a partnership con-

3 tract is rescinded on the ground of the fraud or misrepresen-
4 tation of one of the parties thereto, the party entitled to re-
5 scind is, without prejudice to any other right, entitled,

(a) To a lien on, or right of retention of, the surplus of the
7 partnership property after satisfying the partnership liabili-
8 ties to third persons for any sum of money paid by him for
9 the purchase of an interest in the partnership and for any
10 capital or advances contributed by him; and

(b) To stand, after all liabilities to third persons have been
12 satisfied, in the place of the creditors of the partnership for
13 any payments made by him in respect of the partnership lia-
14 bilities; and

(c) To be indemnified by the person guilty of the fraud or
16 making the representation against all debts and liabilities of
17 the partnership.

Sect. 40. [Rules for Distribution.] In settling accounts
2 between the partners after dissolution, the following rules
3 shall be observed, subject to any agreement to the contrary:

(a) The assets of the partnership are:

I. The partnership property,

II. The contributions of the partners necessary for the
payment of all the liabilities specified in clause (b) of this
paragraph

(b) The liabilities of the partnership shall rank in order of
10 payment, as follows:

I. Those owing to creditors other than partners,

II. Those owing to partners other than for capital and profits,

III. Those owing to partners in respect of capital,

IV. Those owing to partners in respect of profits.

(c) The assets shall be applied in the order of their declaration in clause (a) of this paragraph to the satisfaction of the liabilities.

(d) The partners shall contribute, as provided by section 18 (a) the amount necessary to satisfy the liabilities; but if any, but not all, of the partners are insolvent, or, not being subject to process, refuse to contribute, the other partners shall contribute their share of the liabilities, and, in the relative proportions in which they share the profits, the additional amount necessary to pay the liabilities.

(e) An assignee for the benefit of creditors or any person appointed by the court shall have the right to enforce the contributions specified in clause (d) of this paragraph.

(f) Any partner or his legal representative shall have the right to enforce the contributions specified in clause (d) of this paragraph, to the extent of the amount which he has paid in excess of his share of the liability.

(g) The individual property of a deceased partner shall be liable for the contributions specified in clause (d) of this paragraph.

(h) When partnership property and the individual properties of the partners are in the possession of a court for distribution, partnership creditors shall have priority on

39 partnership property and separate creditors on individual
40 property, saving the rights of lien or secured creditors as
41 heretofore.

(i) Where a partner has become bankrupt or his estate is
43 insolvent the claims against his separate property shall rank
44 in the following order :

I. Those owing to separate creditors.

II. Those owing to partnership creditors,

III. Those owing to partners by way of contribution.

Sect. 41. [Liability of Persons Continuing the Business in
2 Certain Cases.] (1) When any new partner is admitted in-
3 to an existing partnership, or when any partner retires and
4 assigns (or the representative of the deceased partner as-
5 signs) his rights in partnership property to two or more of
6 the partners, or to one or more of the partners and one or
7 more third persons, if the business is continued without
8 liquidation of the partnership affairs, creditors of the first or
9 dissolved partnership are also creditors of the partnership
10 so continuing the business.

(2) When all but one partner retire and assign (or the
12 representative of a deceased partner assigns) their rights in
13 partnership property to the remaining partner, who continues
14 the business without liquidation of partnership affairs, either
15 alone or with others, creditors of the dissolved partnership
16 are also creditors of the person or partnership so continuing
17 the business.

(3) When any partner retires or dies and the business of

19 the dissolved partnership is continued as set forth in para-
20 graphs (1) and (2) of this section, with the consent of the
21 retired partners or the representative of the deceased part-
22 ner, but without any assignment of his right in partnership
23 property, rights of creditors of the dissolved partnership and
24 of the creditors of the person or partnership continuing the
25 business shall be as if such assignment had been made.

(4) When all the partners or their representatives assign
27 their rights in partnership property to one or more third per-
28 sons who promise to pay the debts and who continue the busi-
29 ness of the dissolved partnership, creditors of the dissolved
30 partnership are also creditors of the person or partnership
31 continuing the business.

(5) When any partner wrongfully causes a dissolution and
33 the remaining partners continue the business under the pro-
34 visions of section 38 (2*b*), either alone or with others, and
35 without liquidation of the partnership affairs, creditors of the
36 dissolved partnership are also creditors of the person or part-
37 nership continuing the business.

(6) When a partner is expelled and the remaining part-
39 ners continue the business either alone or with others, with-
40 out liquidation of the partnership affairs, creditors of the
41 dissolved partnership are also creditors of the person or part-
42 nership continuing the business.

(7) The liability of a third person becoming a partner in
44 the partnership continuing the business, under this section to

45 the creditors of the dissolved partnership shall be satisfied
46 out of partnership property only.

(8) When the business of a partnership after dissolution is
48 continued under any conditions set forth in this section the
49 creditors of the dissolved partnership, as against the separate
50 creditors of the retiring or deceased partner or the repre-
51 sentative of the deceased partner, have a prior right to any
52 claim of the retired partner or the representative of the de-
53 ceased partner against the person or partnership continuing
54 the business, on account of the retired or deceased partner's
55 interest in the dissolved partnership or on account of any
56 consideration promised for such interest or for his right in
57 partnership property.

(9) Nothing in this section shall be held to modify any
59 right of creditors to set aside any assignment on the ground
60 of fraud.

(10) The use by the person or partnership continuing the
62 business of the partnership name, or the name of a deceased
63 partner as part thereof, shall not of itself make the individual
64 property of the deceased partner liable for any debts con-
65 tracted by such person or partnership.

Sect. 42. [Rights of Retiring or Estate of Deceased Part-
ner When the Business is Continued.] When any partner
3 retires or dies, and the business is continued under any of the
4 conditions set forth in section 41 (1, 2, 3, 5, 6), or section
5 38 (2b), without any settlement of accounts as between him
6 or his estate and the person or partnership continuing the

7 business, unless otherwise agreed, he or his legal representa-
8 tive as against such persons or partnership may have the
9 value of his interest at the date of dissolution ascertained,
10 and shall receive as an ordinary creditor an amount equal
11 to the value of his interest in the dissolved partnership with
12 interest, or, at his option or at the option of his legal repre-
13 sentative, in lieu of interest, the profits attributable to the
14 use of his right in the property of the dissolved partnership;
15 provided that the creditors of the dissolved partnership as
16 against the separate creditors, or the representative of the
17 retired or deceased partner, shall have priority on any claim
18 arising under this section, as provided by section 41 (8) of
19 this act.

Sect. 43. [Accrual of Actions.] The right to an account
2 of his interest shall accrue to any partner, or his legal rep-
3 resentative, as against the winding up partners or the surviv-
4 ing partners or the person or partnership continuing the busi-
5 ness, at the date of dissolution, in the absence of any agree-
6 ment to the contrary.

PART VII.

MISCELLANEOUS PROVISIONS.

Sect. 44. [Legislation Repealed.] All acts or parts of acts
2 inconsistent with this act are hereby repealed.