

MAINE STATE LEGISLATURE

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REVISED STATUTES
OF THE
STATE OF MAINE
1954

1955 SUPPLEMENT

ANNOTATED

IN FIVE VOLUMES

VOLUME 2

**Place in Pocket of Corresponding
Volume of Main Set**

THE MICHIE COMPANY
CHARLOTTESVILLE, VIRGINIA
1955

Chapter 53. Corporations.

Corporate Powers. Meetings.

Sec. 19. Issue of stock for property and services; issue of rights or options.—Any corporation may purchase mines, manufactories and other property necessary for its business and the stock of any company or companies owning, mining, manufacturing or producing materials or other property necessary for its business, and issue stock to the amount of the value thereof in payment therefor, and may likewise issue stock for services rendered to such corporation and the stock so issued shall be fully paid stock and not liable to any further call or payment thereon, and may create and issue rights or options entitling the holders thereof to purchase from the corporation any shares of its stock for such consideration not less than par and, in the case of stock having no par value, in accordance with the provisions of section 20 hereof, upon such conditions as the stockholders or the directors, acting under authority granted by the stockholders, may prescribe; and in the absence of actual fraud in the transaction, the judgment of the directors as to the value of the property purchased, services rendered and rights or options granted, shall be conclusive. (R. S. c. 49, § 18. 1955, c. 284.)

Effect of amendment.—The 1955 amendment inserted the provisions authorizing a corporation to create and issue rights and options.

Officers and Their Duties.

Sec. 32. Officers of corporation; qualifications of directors; treasurer to give bond; clerk sworn; directors divided into classes; may hold meetings without this state.—Corporations shall have a president, directors, clerk, treasurer and any other desirable officers. Such officers shall be chosen annually and shall continue in office until others are chosen and qualified in their stead. There shall not be less than 3 directors, one of whom shall be by them elected president. Directors must be and remain stockholders, except that a member of another corporation, who owns stock and has a right to vote thereon, may be a director. The treasurer shall give bond for the faithful discharge of his duties, in such sum and with such sureties as are required. The clerk shall be sworn and shall record all votes of the corporation in a book kept for that purpose; nothing herein shall prohibit corporations from providing by their by-laws for the division of their directors into classes and their election for a longer term than 1 year. After the certificate of organization required by law is filed in the office of the secretary of state, directors of all corporations may hold meetings without the state and there transact business and perform all corporate acts not expressly required by statute to be performed within the state. Directors of corporations may act through committees whose powers shall be defined in the by-laws. (R. S. c. 49, § 31. 1955, c. 103.)

Effect of amendment.—The 1955 amendment deleted the words “not charged with the performance of any public duty within the state,” formerly appearing after the word “corporations” in the seventh sentence, and the word “such,” formerly appearing before the word “corporations” in the eighth sentence.

Annual Returns.

Sec. 41. Contents; filed.—Every corporation incorporated under the laws of this state, excepting religious, charitable, educational and benevolent corporations, and excepting such corporations as may be organized under the provisions of the first 20 sections of chapter 54, and such corporations as are liable to a franchise tax other than the tax provided for in section 106 of chapter 16, and such

corporations as have been or may hereafter be excused from filing annual returns under the provisions of section 45 so long as their franchises remain unused shall, on or before the 1st day of June, annually, make a return to the secretary of state, signed by its president or treasurer, verified under oath, containing the names of its directors, president, treasurer and clerk, with the residence of each, the location of its principal office in this state and the amount of its authorized capital stock; and for this purpose the secretary of state shall furnish blanks in proper form and safely keep in his office all such returns. (R. S. c. 49, § 39. 1949, c. 349, § 87. 1955, c. 405, § 33.)

Effect of amendment.—The 1955 amendment substituted “20” for “19” in line four.

Rights of Minority Stockholders.

Sec. 84. Corporation not to sell franchises or entire property without consent of stockholders.—

II. To effect a consolidation under the provisions of the foregoing subsection and subject to the provisions of this and the 11 following sections, any 2 or more corporations organized or to be organized under the provisions of this chapter or existing under the laws of this state may consolidate into a single corporation, which may be any one of said corporations or a new corporation organized under the laws of this state to be formed by means of such consolidation, by entering into an agreement duly authorized by a majority of the directors of the respective corporations and signed by the duly authorized officers and under the respective seals of said corporations, prescribing the terms and conditions of the consolidation, the mode of carrying the same into effect, when the consolidation shall be effective, whether or not the consolidated corporation shall be one of the constituent corporations or a new corporation created by such consolidation and stating in such altered form as the circumstances of the case may require such other facts as are necessary to be set out in the certificate of organization of corporations organized under this chapter and as are pertinent in the case of a consolidation, the manner of converting the capital stock of each of such consolidating corporations or, if the consolidated corporation is to be one of the constituent corporations and the outstanding shares of such surviving constituent corporation are not to be changed, the shares of each of the other constituent corporations, into the stock or obligations of such consolidated corporation together with such other provisions and details as shall be deemed necessary to perfect the consolidation. Said agreement shall be acknowledged by one of the executing officers of each of the consolidating corporations before an officer authorized by the laws of this state to take acknowledgements of deeds, to be the respective act, deed and agreement of each of said corporations. (1955, c. 357, § 1)

III. Subject to provisions of by-laws with reference to closing stock books prior to stockholders' meetings, said consolidation agreement shall be submitted to the stockholders of record of each corporation at a meeting thereof called separately for the purpose of taking the same into consideration, and at said meeting a vote in person or by proxy shall be taken for the adoption or rejection of said agreement, and if the votes of stockholders of each corporation representing a majority of the voting power, on a proposal to consolidate said corporation with another, shall be for the adoption of said agreement, then that fact shall be certified on said agreement by the clerk or secretary of each corporation and the agreement so signed, acknowledged, adopted and certified, after it has been examined by the attorney general and been by him certified to be properly drawn and signed and to be conformable to the constitution and laws of this state, shall be recorded in the registry of deeds in the county where the said consolidated corporation is located, and within 60 days after the day of the meeting at which said consolidation agreement is adopted by the stock-

holders, a copy thereof certified by such register shall be filed in the office of the secretary of state, who shall enter the date of filing thereon and on the original agreement, certified as aforesaid, to be kept by the consolidated corporation, and shall record said copy. From the time of filing the copy of such agreement in the office of the secretary of state, said agreement shall be taken and deemed to be the agreement of consolidation of the said corporations. Where the time such consolidation shall be effective is fixed by some event other than filing such copy with the secretary of state or a specified date, the clerk of each such constituent corporation shall certify to the secretary of state that the event fixing the effective date has occurred. Said original consolidation agreement or a certified copy thereof and a certified copy of such clerks' certificates shall be evidence of the existence of such consolidated corporation and of the observance and performance of all acts and conditions necessary to have been observed and performed precedent to such consolidation. (1955, c. 357, § 2)

VII. When said agreement is so signed, acknowledged, adopted, recorded and filed and any required clerks' certificates of the occurrence of events fixing the effective date have been so filed or the effective date specified in said agreement has arrived, the separate existence of all of the constituent corporations or of all of such constituent corporations except the one into which such constituent corporations shall have been consolidated shall cease; and the constituent corporations, whether consolidated into a new corporation or merged into one of such constituent corporations, as the case may be, shall become the consolidated corporation by the name provided in said agreement, possessing all the rights, privileges, powers, franchises and immunities as well of a public as of a private nature, and being subject to all the liabilities, restrictions and duties of each of such corporations so consolidated and all and singular the rights, privileges, powers, franchises and immunities of each of said corporations and all property, real, personal and mixed, wheresoever located, and all debts due to any of said constituent corporations on whatever account, and all other things in action of or belonging to each of said corporations shall be vested in the consolidated corporation; and all property, rights, privileges, powers, franchises and immunities and all and every other interest shall be thereafter as effectually the property of the consolidated corporation as they were of the several and respective constituent corporations and the title to any real estate, whether by deed or otherwise, under the laws of this state, vested in any of such constituent corporations, shall not revert or be in any way impaired by reason thereof, provided that all rights of creditors and all liens upon the property of any of said constituent corporations shall be preserved unimpaired, limited to the property affected by such liens at the time of the consolidation, and all debts, liabilities and duties of the respective constituent corporations shall thenceforth attach to said consolidated corporation and may be enforced against it to the same extent as if said debts, liabilities and duties has been incurred or contracted by it. (1955, c. 357, § 3)

Effect of amendment.—The 1955 amendment inserted the words "when the consolidation shall be effective" near the middle of subsection II. In subsection III the amendment rewrote the former second sentence to appear as the present second and fourth sentences and inserted the present third sentence. The amendment

also inserted near the beginning of subsection VII the words "and any required clerks' certificates of the occurrence of events fixing the effective date have been so filed or the effective date specified in said agreement has arrived." Only the subsections changed by the amendment are set out.

Foreign Corporations.

Sec. 127. Foreign corporations, before doing business in the state to appoint an attorney; power of attorney and copy of vote filed; service of process.

Any foreign corporation which does business in this state without appointing

an agent as required by this section shall be deemed to have appointed the secretary of state, or his successor in office, to be his true and lawful attorney upon whom may be served all lawful processes in any action or proceeding against such corporation, arising as a result of such corporation doing business in this state and such service shall be of the same legal force and validity as if otherwise served on such corporation.

Service of such process shall be made by leaving a copy thereof with a fee of \$2 in the hands of the secretary of state, or in his office, and such service shall be sufficient service upon such foreign corporation; provided that notice of such service and a copy of the process are forthwith sent by registered mail by the plaintiff to the defendant corporation, and the defendant corporation's return receipt and the plaintiff's affidavit of compliance herewith are appended to writ and are filed with the clerk of courts in which the action is pending, or that such notice and copy are served upon an officer of such foreign corporation if found within the state, by an officer duly qualified to serve legal process, or, if found without the state, by any duly constituted public officer qualified to serve like process in the state or jurisdiction where such officer is found, and the officer's return showing such service to have been made is filed in the case on or before the return day of the process or within such further time as the court may allow. The court in which the action is pending may order such continuance as may be necessary to afford the defendant corporation reasonable opportunity to defend the action. (R. S. c. 49, § 123. 1949, c. 5. 1955, c. 24.)

Effect of amendment.—The 1955 amendment added the above two paragraphs at the end of this section. As the two original paragraphs of the section were not changed by the amendment, they are not set out.

Sec. 133. Liability of officers.—The officers of such foreign corporations shall be jointly and severally liable for all the debts and contracts of the corporation contracted or entered into while they are officers thereof, if any statement or report required by the provisions of the 6 preceding sections, made by them, is false in any material representation and known to them to be false; but only the officers who sign such statement or report shall be so liable. (R. S. c. 49, § 129. 1955, c. 405, § 34.)

Effect of amendment.—The 1955 amendment deleted the word "and" before the word "if" in line three.

Sec. 135-A. Fees to foreign charitable corporations.—Foreign charitable corporations shall be exempt from the payment of any fees payable by foreign corporations to the secretary of state. (1955, c. 224.)

Chapter 54.

Corporations without Capital Stock.

Chapter cited in *Thirkell v. Johnson*,
150 Me. 131, 107 A. (2d) 489.

Organization. Powers. General Provisions.

Sec. 1. Organization.—When 7 or more persons desire to be incorporated as proprietors of a social, military, literary, scientific or county law library; as a masonic lodge or chapter of any order or degree; as a masonic association consisting of members of different orders or degrees; as a lodge of the independent order of odd fellows; as a lodge of the knights of Pythias; as a tribe of the improved order of redmen; as a division of the sons of temperance; as a tent of the rechabites; as a grange of patrons of husbandry; as a council of the sovereigns