

### §291. POWERS AND DUTIES OF THE VICE-PRESIDENT

The vice-president is next in rank below the president. He takes over the president's functions in the event of the absence, incapacity, or death of the president.<sup>85</sup> Whether or not he then has the power to bind the organization by his acts (e.g., contracts) depends on whether or not the president has such powers. Bylaws should provide for this situation.

The office of vice-president ordinarily has no other inherent powers. The vice-president may not bind the corporation unless the charter or bylaws or a resolution specifically so provide.<sup>86</sup>

Some state statutes require (or permit) that the vice-president sign certificates of corporate consolidation or dissolution.<sup>87</sup>

For examples of the powers and duties usually vested in the vice-president, see the forms of articles of association in Chapter 6, of charters in Chapter 19, and of bylaws in Chapter 23.

Selection of several vice-presidents, each with separate functions (often merely honorary), now is commonplace.

Sometimes the title *executive vice-president* is used to indicate general management powers and duties.

### §292. POWERS AND DUTIES OF THE SECRETARY

The secretary is an administrative officer usually charged with the care and keeping of the corporate records, minutes, and seal.<sup>88</sup> He also usually takes minutes at meetings.

The office of secretary ordinarily has no other inherent powers. The secretary usually is presumed to have no discretionary executive power to bind the corporation, unless such authority is shown.<sup>89</sup> But if he is held out as having such power, the corporation may be estopped to deny that he actually did have it, when third persons reasonably rely on the appearances.<sup>90</sup> And if he is given actual authority, even orally, the authority is effective.<sup>91</sup>

Some state statutes require that the secretary (with the president) sign certificates of corporate consolidation or dissolution<sup>92</sup> and also certain financial reports to the state's comptroller.<sup>93</sup>

For examples of the powers and duties usually vested in the secretary, see the forms of articles of association in Chapter 6, of charters in Chapter 19, and of bylaws in Chapter 23.

Selection of an assistant secretary, or of recording and corresponding secretaries with separate functions, now is commonplace.

### §293. POWERS AND DUTIES OF THE TREASURER

[See also Sections 295, 296.]

The treasurer ordinarily is the custodian and the disbursing and accounting agent for the corporate funds, able to disburse them only as directed by the directors or other constituted authority.<sup>94</sup>

The office of treasurer has no other inherent powers. The treasurer may not bind the corporation, unless the charter, bylaws, or a resolution so provide.<sup>95</sup> But if the corporation holds him out as having apparent authority, it may be bound by his acts, as far as third persons who reasonably rely on the appearance are concerned.<sup>96</sup> Despite his title he has no power to borrow, or to draw or issue funds, notes, checks, or other financial paper, unless he is authorized to do so.<sup>97</sup>

Treasurers have gained increased prestige as executives in recent years.<sup>98</sup>

For examples of the powers and duties usually vested in the treasurer, see the forms of articles of association in Chapter 6, of charter in Chapter 19, and of bylaws in Chapter 23.

Selection of assistant treasurers, or of comptroller, treasurer, cashier, and auditor, each with separate functions, now is commonplace.

#### §294. EXECUTIVE MANAGERS (EXECUTIVE SECRETARY)

As for all officers, the charter and bylaws can, and should, specify the powers and duties of the executive manager (or the executive secretary or executive vice-president), if there is such an office.

*Professional nonprofit organization managers.* Many nonprofit organizations employ an executive secretary (general manager). This officer, who often is a professional, usually is a full-time paid employee who runs the daily routine business of the organization. He is usually hired on a contract basis, but the bylaws should lucidly delineate his functions and rights. The attorney who forms the corporation often becomes the executive secretary. Often, too, a lawyer who is expert in association and nonprofit-corporation work is retained to be such a general supervisor. The office of the association may be the office of the attorney.

The work of the *association executive* has become a profession in itself.<sup>99</sup> There is an American Trade Association Executive organization (A.T.A.E.), having its own high code of ethics,<sup>100</sup> with offices in Washington, D.C. Trade Association Management firms now are found in most major cities.<sup>101</sup>

*Managers' functions.* In the absence of specific provisions in the charter or bylaws, a general manager's powers are just about those of the corporation.<sup>102</sup> He may hire administrative employees,<sup>103</sup> obtain legal advice on corporate problems,<sup>104</sup> and enter into other routine contracts.<sup>105</sup> But it must at once be emphasized that these broad powers apply only in the absence of charter or bylaw provisions, and that they apply *only in routine business, not in extraordinary (major decision) matters.*<sup>106</sup>

For major matters, such as an amalgamation, sale of assets, and other drastic decisions, the general manager has no power to decide the organization's fate or choice of direction.<sup>107</sup> And the powers he exercises in even routine matters must be only those reasonably necessary. He ordinarily (in the absence of emergency) cannot make decisions such as whether to borrow or issue notes, without the board of directors' approval.<sup>108</sup>