

**Opinion No. 126****Corporations—Powers—Partnerships.**

HELD: Unless so authorized by its charter or by statute, a corporation has no implied power to enter into a partnership agreement.

March 29, 1933.

You have submitted articles of incorporation which authorize a corporation to enter into a partnership agreement together with a letter from Attorney General Foot advising you that articles of incorporation should not contain such a provision. (Vol. 14. Opinions of Attorney General, page 358).

We have investigated the authorities submitted by the Attorney General and counsel and would agree with the opinion reached by Attorney General Foot. A quotation from Ruling Case Law contained in his opinion may refer particularly to implied powers. The quotation from Fletcher's Cyclopaedia on Corporations: "The rule that a corporation cannot enter into a contract of partnership does not apply when such contract is expressly authorized by its charter as it may be." (Sec. 843, 1917 Edition), and citations given would constitute a sufficient contradictory authority save that the rule laid down in Fletcher's Cyclopaedia on Corporations, Permanent Edition, modifies the above quotation.

"It is fairly well settled that corporations cannot ordinarily enter into partnerships with other corporations or with individuals for in entering into a partnership the identity of the corporation is lost or merged with that of another and the direction of the affairs is placed in other hands than those provided by the law of its creation. A corporation can act only through its duly authorized officers and agents and is not bound by the acts of anyone else while in a partnership each member binds the firm

when acting within the scope of the partnership." (Sec. 2520, Perm. Ed.)

The statement quoted from the former edition of Fletcher's Cyclopaedia on Corporations is entirely omitted and the cases therein cited are cited under a provision which reads as follows:

"The question must depend upon the particular circumstances of each case, and whether the particular corporation has by the statutes or its charter been given capacity to become a partner, for the power to enter into partnerships is sometimes expressly conferred by, or its exercise at least authorized by, statute or charter." (Sec. 2520, Perm. Ed.)

Other authorities state the rule generally that corporations cannot become partners.

We therefore concur in the decision rendered by Attorney General Foot and agree that the articles of incorporation submitted should be modified before they are filed.