deceased.” The signature of one executor is sufficient to bind the others (Attenborough v. Solomon (1913)), and presumably this applies also to one of two or more administrators, but it does not apply to trustees all of whom must concur in any transfer. To obviate any such points arising, it is usual for articles to provide that transfers shall be signed by all parties thereto. The secretary must observe that the names of the representatives agree with the particulars registered when the probate or letters of administration were produced, and if they have not been produced their production should be demanded before certifying or registering any transfer. If a balance ticket is to be issued, it should be made out in the name of the deceased member, unless his representatives have become registered as members.

Death of Executors or Administrators

(1) Where a member has by his will appointed joint executors, or where joint administrators have been appointed, and one dies, the survivor(s) are the only person(s) whom the company can recognize as being entitled to deal with the shares of the original member. The personal representatives of the deceased executor or administrator have no claim whatever, because his surviving partner or partners in office continue to represent the estate. (2) If a sole or last surviving executor or administrator had become registered as a member, then on his death his executor or administrator would lodge probate or letters of administration and deal with the shares. (3) If a sole or last surviving executor or administrator had not become registered as a member, then on his death the procedure is different according to the nature of his office, and whether he died testate or intestate. Therefore—

(a) If a sole or last surviving executor who has not become registered as a member dies testate—the entire representation
to the estate of the original testator will pass to the executor’s executor. Should the deceased executor have neglected to appoint an executor, or if the executor he appointed refuses to act or is dead, then one of the next-of-kin of the original testator must take out letters of administration *de bonis non cum testamento annexo*, and the company must not deal with the shares without the production of this grant.

(b) If a sole or last surviving executor who has *not* become registered as a member dies *intestate*—his administrator has no right of representation to the estate of the original testator. One of the next-of-kin of the original testator must take out letters of administration *de bonis non cum testamento annexo* before the shares can be dealt with.

(c) If a sole or last surviving administrator who has *not* become registered as a member dies—no right of representation to the estate of the original member will pass to the personal representative of the deceased administrator whether he died testate or intestate. One of the next-of-kin of the original member must take out letters of administration *de bonis non*, as before mentioned, before the shares can be dealt with.

(4) This passing from one person to another of the right to represent an estate is commonly known as the “chain of representation,” and must be very thoroughly understood, otherwise a company may find itself dealing with a person who has no authority to represent a member’s estate, and if transfers by such person are registered the consequences may be serious. The following is an example of what happens in these cases. A dies, appointing B (his wife) to be his executor. B registers the probate, but does not become registered as a member. B dies intestate and her administrators lodge letters of administration and attempt to deal with the shares, but, as has been shown, they have no right to do so as the shares still belong to A’s estate because B had not completed the administration of A’s estate by transferring the shares or becoming registered in respect of them; therefore, letters of administration *de bonis non* to A’s unadministered estate must be taken out before the company can deal with the shares. Even if B had been sole legatee of all that A dies possessed of, the position would
still be the same notwithstanding the argument that as the shares actually belonged to B surely her administrators can deal with them. And supposing B had no interest in A’s estate at all, if the company permitted the shares to be dealt with by her administrators, the consequence might be that the shares are transferred to persons other than those beneficially entitled to them, and the company would be bound to make good this loss to the persons beneficially entitled, because it has permitted a transfer by persons not having the right to transfer; and as regards the purchasers of such shares, they would have no title as the person transferring to them (i.e. B’s administrators) had no title, but if the purchasers had subsequently sold or mortgaged the shares to third parties relying on the company’s certificate, then the company would be bound to register such third parties as the proprietors of an equivalent number of shares or alternatively to compensate them.

This example should impress the reader with the necessity for thoroughly understanding and correctly applying the “chain of representation.”

Bankruptcy of a Member

Upon the bankruptcy of a member, his shares become vested in his trustee in bankruptcy, by virtue of Sect. 38 of the Bankruptcy Act, 1914, but not so any shares registered in the name of the bankrupt in the capacity of a trustee or representative for others beneficially entitled to the shares. The trustee in bankruptcy should produce to the company either an office copy of his appointment, or a copy of the London Gazette containing the advertisement of his appointment, before he can be allowed to deal with the shares, and a specimen of his signature is desirable also. Sect. 48 of the Bankruptcy Act gives the trustee the same right to transfer the shares as was possessed by the bankrupt.
Articles may permit or require the trustee to become registered as a member, but as this would make him personally liable, and because of the general urgency of winding up the bankrupt’s affairs, it is unlikely that a trustee will become registered. If he became registered, it seems probable that he would lose his right of disclaimer, and for this reason, if the shares were only partly paid, he would not wish to become registered.

On the bankruptcy of a joint holder, his interest in the shares passes to his trustee in bankruptcy, and the procedure is the same as outlined before. In this case the instructions of the other joint holders and the trustee should be obtained as to the method of remitting dividends, giving notices, etc.

**Lunacy of a Member**

Property of a lunatic can be dealt with only under an Order of Court, and this order or an office copy thereof, must be produced to the company for registration, by the Committee in Lunacy appointed by the Court.

On the death of a person of unsound mind, the committee will cease to act, and transfer the shares to his executors or administrators, who will then deal with the estate. If a joint holder becomes lunatic, his committee will take control of his interest in the joint shareholding. The committee would have to be joined as a party to any transfer of the shares. The other joint holders and the committee may arrange for a partition of the holding so that the lunatic’s interest may be effectively dealt with, but pending such an arrangement, the instructions of all concerned should be obtained as to the manner of remitting dividends, giving notices, etc.

**Liquidation of a Company Member**

Where a company holding shares goes into liquidation, future dealings in the shares will be conducted
by the liquidator, who should produce evidence of his appointment (for example a copy of the London Gazette containing the advertisement of his appointment, a certified copy of the resolution appointing the liquidator, etc.) together with a specimen of his signature. The fact of the liquidation should be noted in the register of members. The company retains its corporate state even though it is in liquidation, and therefore if the liquidator transfers the shares the transfer must be under the seal of the company and the sealing attested by the liquidator.
Note: The following four forms assume that the shares have distinguishing numbers (see Sect. 74).

<table>
<thead>
<tr>
<th>Date Recd.</th>
<th>Date Regd.</th>
<th>TRANSFEROR</th>
<th>TRANS-</th>
</tr>
</thead>
<tbody>
<tr>
<td>Name</td>
<td>Address</td>
<td>No. of Shares</td>
<td>Distinctive Nos. From To</td>
</tr>
<tr>
<td>------------</td>
<td>------------</td>
<td>--------------</td>
<td>--------------------------</td>
</tr>
</tbody>
</table>

**TRANSFERS**

<table>
<thead>
<tr>
<th>Description</th>
<th>Folio in Reg.</th>
<th>New Certificate Nos.</th>
<th>Consideration Paid</th>
<th>Remarks</th>
<th>Chairman's Initials</th>
</tr>
</thead>
<tbody>
<tr>
<td>Transferee</td>
<td>Balance Cert.</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

**FEEEE**
### Specimen Balance Ticket

<table>
<thead>
<tr>
<th>Balance Ticket</th>
<th>The Exemplary Company, Limited</th>
</tr>
</thead>
<tbody>
<tr>
<td>No. ............ Date...........</td>
<td>No. ..........................</td>
</tr>
<tr>
<td>No. of Cert. ..................</td>
<td>No. of Old Cert. .............</td>
</tr>
<tr>
<td>Shareholder's Name ..........</td>
<td>Shareholder's Name ...........</td>
</tr>
<tr>
<td>..............................</td>
<td>..............................</td>
</tr>
<tr>
<td>BALANCE TICKET for ..........</td>
<td>BALANCE TICKET for ..........</td>
</tr>
<tr>
<td>For .................... shares, numbered</td>
<td>to .................. inclusive.</td>
</tr>
<tr>
<td>........................... to ...........................</td>
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</tr>
<tr>
<td>Issued to ...................</td>
<td>Issued to ...................</td>
</tr>
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<td>..........................</td>
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<tr>
<td>..........................................................</td>
<td>..........................................................</td>
</tr>
</tbody>
</table>

Note. This Ticket should be carefully preserved, as further transfers can only be certified or a Balance Certificate issued on production of this Ticket.
SPECIMEN TRANSFER RECEIPT

THE EXEMPLARY COMPANY, LIMITED

99 Lune Street,
London, E.C.1

No. ................

RECEIVED this ................ day of  ................ 19 ........, from ................ ................

........................................ .............. .............. ...... for registration, transfer to ................ ..........

........................................ .............. .............. ...... of ................ shares numbered .............. ....

to ................ also Transfer Fee of .............. ....

........................................ .............. .............. ...... ........................ Secretary

NOTE. A new Certificate will be issued in exchange for this receipt on and after 19 ......
**Specimen Schedule Endorsed on Back of Share Certificates**

**TRANSFERS CERTIFIED OR LODGED**

<table>
<thead>
<tr>
<th>Date</th>
<th>Transferee's Name(s)</th>
<th>No. of Shares</th>
<th>Distinctive Nos.</th>
<th>Transfer No.</th>
<th>No. of New Cert.</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td>From</td>
<td>To</td>
<td></td>
</tr>
</tbody>
</table>

**TRANSFER FEES CASH BOOK**

<table>
<thead>
<tr>
<th>Date</th>
<th>Transfer No. or Details</th>
<th>Transfers</th>
<th>Probates</th>
<th>Miscellaneous</th>
<th>Total</th>
<th>Date</th>
<th>Details</th>
<th>Amount</th>
</tr>
</thead>
</table>
CHAPTER IX

MISCELLANEOUS MATTERS IN CONNECTION WITH TRANSFER AND TRANSMISSION

In this chapter, various matters incidental to registration of transfers, and those falling within the sphere of the transfer department, have been collected together for the purpose of convenience.

Filing in the Transfer Department

All correspondence should be filed along with the transfer to which it relates. For reference purposes, and to facilitate filing, the serial number of the transfer should be stated on all letters, etc. As all the documents and correspondence relative to a particular transfer are thus kept together, if any letter or document relating to a particular person is required, the transfer number will be stated in his account in the register of members, and the papers can thus be traced easily. Owing to the large number of transfers, any method of filing correspondence separately would tend to be wasteful and not nearly so efficient. As regards correspondence not concerned directly with transfers (for example, inquiries from shareholders, applications for issuing of duplicate certificates, etc.), the inward letters with carbon copies of the replies thereto can be filed alphabetically year by year.

Dealing with Agents

If in any matter communications and dealings are conducted by an agent for a member, before delivering any documents to the agent, the secretary should require the written authority of the shareholder, and this authority should be carefully preserved. If possible, the signature on the letter of authority should be compared with the company's record of the member's
signature. The only departure from this practice should be the customary dealing with buyers' and sellers' brokers as regards share certificates and transfers, and with solicitors in cases of transmission, as the authority of these agents is implied and established by custom.

Transfer and Transmission Fees

Unless the articles prescribe the fees payable for registering transfers and transmissions, it is doubtful whether the payment of such fees could be legally demanded. An article prescribing the fee payable on registration of a transfer would not, ipso facto, entitle a similar charge to be made for the registration of a transmission. As regards fees for issuing duplicate share certificates and the like, as the company is not obliged to issue these (unless the articles so prescribe), a reasonable charge therefor could hardly be objected to. It is desirable, however, that particulars of the charges which are likely to be levied for various purposes—transfers, transmissions, change of name on marriage of a female shareholder, issuing duplicates, registering powers of attorney, etc.—should be clearly stated in the articles. Most articles prescribe a fee of 2s. 6d. for registering a transfer (see Clause 25 of Table A). The Stock Exchange regulations prescribe that a fee of not more than 1s. shall be charged for a duplicate certificate (see Clause 9 of Table A, which now prescribes a fee of 2s. 6d.).

The recording of these fees should be carried out methodically. A suggested ruling for a subsidiary cash book for this purpose is shown on page 175. Additional analysis columns can be provided if there are different classes of shares, or where debentures have been issued. The amount received should be handed to the accountant at regular intervals, the castings of the transfer fees book checked, and the totals incorporated into the general cash book.
Powers of Attorney

A power of attorney is a written document whereby one person appoints and authorizes another to act in his stead. The person making the appointment is known as the donor, principal, grantor or appointor, and the person appointed is known as the donee, agent, grantee, or attorney, although the terms "donor" and "donee" are those in most general use. The donee may only be given the power to carry out a specified act or acts, in which case the power is said to be "special," or he may be given a general authority to do all acts and things on behalf of the donor, when the power is said to be "general." The exact scope of the donee's authority depends, of course, on the interpretation of the document. "General words clauses" are usually construed *ejusdem generis*, and not as giving the donee authority to do acts other than those incidental to those expressly mentioned. A power of attorney need not be under seal unless the donee is to execute deeds. The stamp duty on a power of attorney is 10s., whether under seal or not, but certain powers attract lesser stamp duties; amongst these are the following—

Power for receipt of interest or dividends (one payment only)  18.
The like for more than one payment  58.

The following is an outline of the points to which attention should be given when scrutinizing a shareholder's power of attorney lodged for registration—

1. The name, address, and description of the donor must agree with the company's records, and if possible his signature should be verified.

2. Observe that the instrument is correctly signed, attested, and stamped. If the company's shares are required to be transferred by deed, the power of attorney must be under seal if the donee is empowered
to transfer or purchase shares and wishes to exercise such power.

3. The scope of the authority given must be noted. The secretary will be chiefly interested in any powers of dealing with shares, etc., receiving dividends, bonuses, etc., and giving valid receipts therefor, and the donee's authority in this respect should be carefully examined. For example, the donee may have power to sell, but not to buy shares, and in such a case transfers to the donor executed by the donee as his attorney cannot be accepted.

4. The duration of the instrument must also be noticed. The power may be for a fixed term, or for an indefinite period, for example, "during my absence from England." Sometimes a power is expressed to be irrevocable for a fixed period. By Sect. 127 of the Law of Property Act, 1925, if a power is expressed to be irrevocable for a fixed period not exceeding one year, then in favour of a purchaser of property who relies on the power, it is enacted that such power shall not be revoked during that period, even by the death, disability, or bankruptcy of the donor. The term "property" includes shares and other choses in action.

Registering a Power of Attorney

Having scrutinized the power of attorney and found it to be in order—

1. Enter the necessary particulars in the register of probates, etc. (a special register may be used if found more convenient), noting especially powers given to the donee which specially concern the company, for example, buying, selling, pledging, and mortgaging shares, debentures, etc. An attorney has no implied power to borrow.

2. Record the fact that the power of attorney has been granted, in the donor's account in the register
of members, quoting the reference to the register where particulars of the power are entered.

3. Endorse the power of attorney to show that it has been produced—

THE EXEMPLARY COMPANY, LIMITED
Registered

Date................................. .......
No...........................

..........................Secretary.

4. Return the instrument to the donee or to the agent who submitted it for registration. A power of attorney is the property of the donee (Hibberd v. Knight (1848)). A fee of 2s. 6d. is usually charged for registering powers of attorney.

5. When a power of attorney is presented for registration, a specimen signature of the donee should be demanded.

A specimen signature authenticated by the donor is desirable, but if this cannot be obtained, then a specimen authenticated by a banker, solicitor, or other person of standing, should be required.

Transfers Executed Under a Power of Attorney

When registering a transfer executed under a power of attorney, it is essential to ensure that the transfer is authorized by the power and that the power is still in force and unrevoked. Sect. 124 (1) of the Law of Property Act, 1925, provides—

Any person making any payment or doing any act, in good faith, in pursuance of a power of attorney, shall not be liable in respect of the payment or act by reason that before the payment or act the donor of the power had died or become subject to disability or bankrupt, or had revoked the power, if the fact of death, disability, bankruptcy, or revocation was not at the time of the payment or act known to the person making or doing the same.

And further, it is a well-known principle of agency that a principal is estopped from denying his agent’s
authority to deal with third parties who know of the agency, unless he notifies such third parties of the withdrawal. But notwithstanding the foregoing remarks, reasonable diligence should be exercised in ensuring that the power has not been revoked. If the power is expressed to be irrevocable for a fixed period not exceeding one year, Sect. 127 of the Law of Property Act, 1925, provides that a purchaser is protected against revocation during such fixed period and therefore transfers authorized by the power, if made during the fixed irrevocable period, may be safely registered. If the duration of the power is uncertain, or if a fixed irrevocable period has expired, the secretary should require to be satisfied that the power is still in force before registering any transfers executed under it. The written assurance of the donor, if this can be obtained, is desirable, but if this is impossible, then a statutory declaration by the attorney that he has received no information as to the revocation of his power should be asked for. Section 124 (2) of the Law of Property Act, 1925, provides—

A statutory declaration by an attorney to the effect that he has not received any notice or information of the revocation of such power or attorney by death or otherwise shall, if made immediately before or within three months after any such payment or act as aforesaid, be taken to be conclusive proof of such non-revocation at the time when the payment or act was made or done.

Where the donee of the power of attorney is a corporation aggregate, the officer appointed to act for the corporation in the execution of the power may make the statutory declaration in like manner as if that officer had been the donee of the power.

Upon revocation it is usual, although not always the case, for the instrument to be returned to the principal, and thus the possession of the instrument by the attorney is prima facie, but not conclusive, evidence that revocation has not taken place, and in cases of
doubt as to whether revocation has or has not taken place, evidence that it is still in force should be obtained in the manner indicated.

Sect. 123 of the Law of Property Act, 1925, enables an attorney to sign his own name and signature and use his own seal (where sealing is required), but the more common practice is for the attorney to sign documents in the name of the donor or clearly to indicate that he signs for and on behalf of the donor, for example, “A. B., by his attorney, C. D.,” so as to negative the possibility of his being personally liable.

Any statutory declaration by an attorney pursuant to Sect. 124 of the Law of Property Act, 1925, should be retained by the company as its authority for recognizing the power of attorney as still in force.

Forged Transfers

A forged transfer gives no rights to the shares to the alleged transferee, whether he acted innocently or not, even if the company registers him as a member and issues to him a certificate, because he would be registered and the certificate would be issued consequent upon a forgery, and forgery can never give a title. If such a transferee’s name has been entered on the register, on the forgery becoming known the company is bound to restore the name of the true owner of the shares and to pay to him all dividends declared, and recognize his right to all benefits his holding entitled him to, since his name was wrongly removed from the register, and the alleged transferee is bound to indemnify the company in respect thereof.

In Sheffield Corporation v. Barclay (1905), it was held that a person calling upon a company to register a transfer is bound on an implied contract to indemnify the company against any liability which it may incur as a result thereof, and it makes no difference that the person presenting the transfer for registration is not
aware of the invalidity of his title to call upon the company to register the transfer.

If the transferee under a forged transfer receives a share certificate and subsequently sells or pledges the shares, and the purchaser or pledgee acts *bona fide* in reliance on the certificate and has no notice of the forgery, then the company is estopped from denying its certificate, and consequently is bound to compensate the purchaser or lender, or alternatively is bound to register him as the proprietor of shares of the kind or value comprised in the certificate. If such purchaser or pledgee had been registered as holder of the shares, the name of the true owner must, of course, be restored, but the company can, following the decision in the above case, call upon the person who purported to sell or pledge the shares, i.e. the transferee under the forged transfer, to refund the loss suffered in compensating or otherwise satisfying the purchaser or pledgee.

It is thus apparent that in cases of forged transfers, the company may lose considerably if the transferee under the forged transfer is a person of small means, or is adjudicated bankrupt, or cannot be traced, and for this reason it is very desirable that the signatures of all transferors should be verified. Although this is not conclusive protection against clever forgeries, it is nevertheless a practice to be recommended. Too much reliance should not be placed on the advice of transfer sent to the transferor, since, as was stated on page 147, the transferor is under no obligation to reply thereto, and, furthermore, it may be possible for such advices to be intercepted by parties to the forgery.

In *Ruben v. Great Fingall Consolidated Trust* (1906), the secretary forged a share certificate, and the person named as the proprietor sold the shares, but the company having discovered the forgery, refused to register the transferee, and the court held that the company was entitled to do so, and neither could the company
be compelled to compensate the transferee. He was an innocent transferee, as were the purchaser and pledgee in the example previously outlined, but there is this distinction: the purchaser or pledgee in the example outlined relied on a genuine certificate issued by the company, although it was issued consequently upon a forged transfer, whereas the transferee in Ruben’s case was relying upon a forged certificate, and a company is estopped from denying a genuine certificate, but not from denying a forged one.

If a transfer of shares was executed under a forged power of attorney, the transfer would be ineffective, inasmuch as the person purporting to transfer would have no title to do so, but following the decision in Sheffield Corporation v. Barclay (1905), it would appear that both the transferee and the person acting under the forged power would be liable to indemnify the company for any loss it might sustain as a consequence of acting upon the transfer.

**Forged Transfers Acts, 1891-2**

These Acts empower companies to use their funds to make compensation to transferees who find themselves deprived of shares which they have bought, owing to their acting innocently under forged transfers or transfers executed under forged powers of attorney. The company is not, of course, liable to pay such compensation except to a party acting bona fide on a genuine certificate issued to a person acquiring shares through a forgery as before mentioned.

A company can exercise the powers given by the Acts without any necessity to adopt the Acts by its articles or by resolution, and whether the company has or has not adopted the Acts, there is no obligation to make such compensation (except as stated previously). The compensation is payable out of the company’s funds, and a fund may be established for
this purpose, by charging a fee on transfers not exceeding Rs. per £100 nominal value of the shares transferred, or by reservation of profits, or by insurance or otherwise. If a company pays compensation under the Acts, the rights of the person compensated, against the person who has caused the loss, are subrogated to the company.

Procedure Where a Forgery is Discovered

If on comparing the signature of the transferor with the records, the secretary is of opinion that it is a forgery, he should communicate at once with the transferor. The fact that forgery is taking place may become known by the transferor communicating with the company in reply to the advice of transfer. The matter should also be brought to the notice of the board, and if it is quite certain that a forgery has taken place, the transferee should be informed so that he may take steps to protect his position. If the transferee had been registered before the forgery was discovered, his name should be removed from the register, and if a certificate had been issued to him he should be asked to return it. If he is unwilling to do so, the matter should be placed in the hands of the company's legal advisers with a view to proceedings being taken to compel him to return the certificate.

Change of Name of a Member

1. Marriage of a Female Member. On receiving notice of marriage, the name, address, and description of the husband, and a specimen signature of the wife, should be asked for, if not furnished. The share certificate should be produced and be endorsed to show the change of name. Some companies prefer to issue a new certificate in the name of the married woman. The marriage should be recorded in the register of members, and the index amended, and if a new certificate has
been issued, the fact should be noted, indicating the number of the new certificate. Some companies demand production of the marriage certificate or a copy thereof, and others require a form of request to register the married name, but it is submitted that a letter signed by the member notifying her marriage and giving the particulars above-mentioned is all that is necessary. A fee of 2s. 6d. is usually required (Table A, Clause 28).

2. Adoption of Another Name. A person may change his name in the following ways: (a) Without any legal formality—simply adopting the new name and discarding the use of the old one. (b) By Deed Poll, i.e. a document under the seal of the person concerned declaring his adoption of the new name. This is usually followed by an advertisement in the London Gazette and/or The Times. (c) By Royal Licence. (d) By Act of Parliament. The last two are not common.

In case (a) an attested declaration of the change, showing both the old and new signatures, is desirable. In the other cases the document by which change is evidenced will probably be produced; if it is not, an attested declaration should be asked for. The share certificate should be handed in for endorsement to show the change, and the change should be recorded in the register of members, and the index thereto amended.

3. Change of Name of a Company Member. The new certificate of incorporation, or a certified copy of the special resolution changing the name, should be produced, together with an authenticated specimen of the new seal. The share certificate should be endorsed and the change recorded in the register of members. In all these cases, it should be observed that the company obtains a receipt for the endorsed share certificate when the latter is returned to the member.

Closing of Transfer Books

It is customary for most companies to suspend
registration of transfers for a period, usually fourteen days, before the annual general meeting. In the case of preference stocks and shares, it is the practice with many companies to pay the dividends thereon by half-yearly payments on regular dates. Many companies also declare interim dividends regularly, and the transfer books are usually closed before the time the dividends are to be paid, the "close" period expiring on the date payment is to be made. Usually, the board passes a resolution closing the transfer books, and members are notified by advertisement, or where the close period precedes the annual general meeting, notification of closing of transfer books is incorporated in the notice of the meeting. If the shares are quoted on the Stock Exchange, notice is also given to the secretary of the Stock Exchange, so that the shares may be quoted "ex div." in the case of sales not completed in time for the transfers to be lodged for registration before the close period. It is not essential for a resolution closing the transfer books to be passed, nor is it necessary for articles to authorize the closing of the transfer books.

Below are specimen notices—

THE EXEMPLARY COMPANY, LIMITED

NOTICE IS HEREBY GIVEN that the Ordinary Share Transfer Registers of this Company will be closed from 18th to 31st May, both dates inclusive, for the preparation of Dividend Warrants to be posted on 1st June next.

By Order of the Board,

............ Secretary.

99 Lune Street, E.C.1.
13th May, 19...

THE EXEMPLARY COMPANY, LIMITED

NOTICE IS HEREBY GIVEN that the Preference and Ordinary Share Registers and Transfer Books will be closed from 20th May to 1st June, 19..., both dates inclusive.

By Order of the Board,

............ ..... Secretary.

99 Lune Street, E.C.1.
15th May, 19...
Every company is allowed two months within which to register or refuse to register a transfer (see Sects. 78 and 80), and when it becomes necessary to balance the share ledger for purposes of paying dividends, it would be quite competent for the company to suspend registration of transfers without notice, in order to balance the share ledger, provided the statutory limit of two months was not exceeded. But companies whose shares are quoted on the Stock Exchange would not act so peremptorily, and for the convenience of its members and the Stock Exchange it is customary to give formal notice of closing of transfer books, and most articles contain some direction on this point.

Table A provides: “The registration of transfers may be suspended at such times and for such periods as the directors may from time to time determine, provided always that such registration shall not be suspended for more than thirty days in any year.” (Clause 27).

The closing of the register of members must not be confused with the closing of the transfer books. Under Sect. 115, the register of members may be closed, i.e. inspection thereof can be refused, for any time or times not exceeding in the whole 30 days in each year, provided notice is given by advertisement in some newspaper circulating in the district in which the registered office is situated. As has been shown, it is competent for a company to close its transfer books without giving notice, but inspection of the register could not be refused except during a period when it was properly closed by notice in accordance with Sect. 115. Many companies never avail themselves of this right to close the register of members, for the reason that they never find it necessary to do so; if the register is required to be balanced as on a certain date, no more transfers are registered after that date, and the balancing can accordingly proceed, as interruptions
caused by persons seeking to exercise their statutory right of inspection would not be very frequent, and therefore the expense of notifying the closing of the register can be saved.

Trusts

Sect. 117 provides that "No notice of any trust, express, implied, or constructive, shall be entered on the register, or be receivable by the registrar, in the case of companies registered in England." The word "registrar" in this section means the Registrar of Companies, not the company's own secretary, or transfer registrar. The object of the section is to prevent the company being placed in the position of a trustee for any person other than the registered holder, who claims to have an interest in or right to the shares registered in the name of another. A simple example will make the position clear. A, B, and C are trustees of a settlement made by Z in favour of his children—the funds settled on the children are partly invested in shares in a registered company—the terms of the settlement provide that the children enjoy the income from the trust funds during their lives, and on their death, their issue, if any, become entitled to the capital, i.e. the trust will come to an end. The shares will be registered in the names of A, B, and C as though they were beneficial joint holders—as though they were themselves the true owners of the shares—and no notice of the fact that they are merely trustees for others can be indicated in the register. A, B, and C can dispose of the shares when and on such terms as they choose, so far as the company is concerned, and the company is not bound to inquire whether such dealing is in accordance with the terms of the trust—but the company might be so bound to inquire if it was obliged by law to recognize the fact that A, B, and C were merely trustees for others. Again, if A, a shareholder,
deposited his certificate with B to secure repayment of a loan, and A or B gives notice of the fact to the company, the fact that B is interested as pledgee of the shares must be ignored, and the company cannot recognize his rights in any way; for example, if A fraudulently re-obtained possession of the share certificate and sold the shares in fraud of B's rights, the company could not refuse to register the transfer on the ground that B's position would be prejudiced.

The only way in which a company can be affected with notice that a person other than the registered holder is interested in the shares, is by means of a notice in lieu of distraining (see page 153). Other matters of interest in this connection are "Liens on Shares" (page 154), and "Public Trustee" (page 152).

**Charging Orders**

A charging order is a means whereby a judgment creditor seeks to obtain payment of the judgment debt when the judgment debtor makes default in complying with the judgment. A well-known example is the charging of a partner's share of the partnership property with payment of his separate debt. In order that a judgment creditor can obtain a charging order on stocks or shares, they must belong to the judgment debtor beneficially, i.e. they must be registered in his name, or in the names of his trustees. A charging order cannot be obtained against shares or stock registered in the name of the debtor as a trustee for others. If the debtor is only entitled to the income from shares held in trust for him, an order charging the dividends may be obtained by the creditor, but as the trustees are the legal owners of the shares, the company will be bound to pay the dividends to them, and then they will have to pay such dividends to the creditor in accordance with the terms of the order. When the Court grants a charging order, it first makes an "order nisi."
i.e. a provisional order which will be made "absolute," unless the debtor can show cause why it should not be made absolute. The creditor will serve the "order nisi" on the company, and its effect is to restrain the company from permitting transfers of the shares stated in the order (or paying dividends thereon as the case may be) until it is made absolute or discharged. A company failing to comply with a charging order is liable to compensate the creditor for any loss he may thereby sustain. If a charging order is served on a company, the secretary should ascertain that shares or stock are registered in the name of the debtor, and should note in the register of members the fact that the order has been made, and the document should be carefully preserved.

In Gill v. Continental Gas Co. (1872): A executed a transfer of shares to B on 28th December. B presented it for registration on 17th January following, but the company rejected it as not properly stamped. On 16th February the company was served with a charging order, charging A's shares. On 19th February B re-presented the transfer duly stamped, and it was registered. Held the property in the shares had passed to B, and therefore Gill, the chargee, could not recover from the company, as at the date of the notice of the order, the judgment debtor was not beneficially entitled to the shares.

When the order is made absolute, if the debtor does not pay the creditor and get the order discharged, the creditor can apply to the Court for an order to sell the securities or transfer them to himself, and if the debtor refuses to execute the transfer, the Court will give directions as to how the transfer is to be executed. The company would, of course, be bound to recognize a transfer executed under an Order of Court by a person other than the registered holder. On such a transfer being presented, an office copy of the Order of Court giving directions as to the execution of the transfer should be asked for.

Debentures cannot be the subject of a charging order,
but the judgment creditor of a debenture holder may obtain a garnishee order in respect of the debentures.

**Issuing of Duplicates**

Companies are not infrequently called upon to furnish duplicates of various documents which have been lost or mislaid by their members. The procedure in these matters is dealt with fully in the succeeding paragraphs.

1. **Lost Share Certificate.** Require the shareholder to deliver a statutory declaration as to the loss and a letter of indemnity (stamped 6d.) indemnifying the company against any liability it may incur by reason of the original certificate having been lost and a new certificate being issued. This letter of indemnity should be supported by the guarantee of a banker or person of good financial standing, or a guarantee company, if the value of the shares warrants it. The matter should be brought before the board, and the new certificate sealed and attested in accordance with the articles, the sealing being recorded in the seal book. The new certificate should be conspicuously marked "**DUPLICATE,**" across its face, and an entry made in the register of members that a duplicate has been issued.

A fee of 2s. 6d. is now usually charged for issuing a duplicate certificate. This is so provided by Table A, Clause 9, but the Stock Exchange regulations provide that 1s. shall be the maximum fee charged for a duplicate certificate, although it is not unusual for companies to make an additional charge for the incidental work involved. The applicant must himself bear the stamp duty on the letter of indemnity and guarantee, and the cost of preparing them and the statutory declaration, unless the company provides the forms.

When the fees are paid, the duplicates can be issued, and a receipt therefor should be obtained. The letter
of indemnity usually provides that the applicant undertakes to surrender the lost certificate if and when it is found. If he sells the shares, the duplicate certificate must be produced with the transfer. If the original is lodged, inquiries should be made into the circumstances and the duplicate must be surrendered before the transfer is registered, otherwise the company may be liable to compensate a third party relying bona fide on the duplicate.

2. Lost Share Warrant or Bearer Securities of Any Description and/or Coupons Annexed Thereto. Owing to the nature of these documents the secretary must be satisfied quite clearly that the person applying for the duplicate is the proprietor of the lost document, and that a thorough and exhaustive search has been made and everything possible done to discover the whereabouts of the document. Not only will it be necessary to have a full guarantee from a person or firm of the highest standing, a statutory declaration by the applicant that he is the owner and has lost the document, and a letter of indemnity from him containing an undertaking to surrender the document should it subsequently be found, but in addition the application should be supported by a statutory declaration by a third party of repute, who can vouch that to his own knowledge the applicant is the proprietor of the document and has lost it. The matter should be brought before the board for its approval of the indemnity and guarantee offered. It is also desirable that before a duplicate is issued, the applicant should be required to pay the expense of prominent advertisement in leading newspapers stating that the document has been lost and that, after the expiration of a certain period, a duplicate will be issued to the applicant, whose name and address, together with full particulars of the document, should be disclosed. Eventually, if the board consents to a duplicate being issued, the necessary
document will be prepared and clearly marked "DUPLICATE," sealed and attested, and, if necessary, stamped. The issuing and sealing of the duplicate should be authorized by a resolution of the board and the sealing duly recorded in the seal book. On the statutory declarations, indemnity and guarantee duly stamped being handed to the company, together with a remittance for the stamp duties (if any) and incidental expenses and fees, the duplicate can be handed to the applicant and his receipt therefor obtained. If the duplicate has coupons attached, or if duplicates of lost coupons have been issued, the company’s bankers must be notified of the numbers of the lost coupons and instructed to stop payment thereof pending further inquiries, should the lost coupons be presented for payment. The duplicate document and coupons should bear a different number from the original.

See also page 220 regarding presentation for payment of coupons from share warrants or bearer debentures alleged to have been lost.

3. LOST CERTIFIED TRANSFER. Before issuing a duplicate, a statutory declaration as to loss, and a letter of indemnity (including an undertaking to surrender the lost transfer should it be found) should be required. A guarantee would not be necessary in this case, for if a person fraudulently presents the lost certified transfer for registration he would have no title to the shares. The company would at once know that someone was not acting bona fide and could refuse to register the transfer. Inquiries could be instituted as to how the lost instrument came to be used—and probably the duplicate which was issued would have been acted upon, and the shares registered in the name of the true transferee at the time the lost transfer is presented, so that the company would have no need for the protection of a guarantee.

Before issuing a duplicate certified transfer, the
authority of the board should be obtained. The
duplicate must be clearly marked "DUPLICATE," and
a note that it has been issued should be made on the
back of the relevant share certificate (and in the
register of certified transfers where one is in use).
On payment of a small fee for the incidental work, the
duplicate may be issued to the applicant and his receipt
therefor obtained. When the transfer is presented
for registration, it must be observed that it is the
duplicate which is lodged. If the original is lodged it
should not be registered until inquiries have been
made into the circumstances and the duplicate also
surrendered.

4. LOST LETTER OF ALLOTMENT. A statutory declar-
ation and letter of indemnity should be obtained as
previously outlined, supported by a guarantee if
thought desirable. Obtain the consent of the board
before issuing the duplicate. Prepare the duplicate
clearly marking it "DUPLICATE," have it signed and
make a note in the application and allotment sheets
and register of members that a duplicate has been
issued, indicating the number thereof. On payment
of the fees, issue the duplicate to the applicant and
obtain his receipt. When the share certificates are
issued for the allotment letters, it must be observed
that the duplicate allotment letter is surrendered. If
the original is surrendered inquiries should be made
into the circumstances and no share certificate issued
until the duplicate is lodged also.

5. LOST DIVIDEND WARRANT. If the amount of the
warrant is only small, a duplicate may be issued if the
member writes a letter declaring his loss and agreeing
to indemnify the company against any loss (stamp duty
on such a letter is 6d. if amount involved is £5 or over),
but if the amount is large, a statutory declaration is
desirable and the letter of indemnity should be sup-
ported by a guarantee. A letter should be addressed
to the company's bankers, inquiring if the warrant has been paid, and if not paid, instructing them to stop payment of the lost warrant, quoting the number, date, name of payee and amount. Before issuing a duplicate, the matter should be brought to the notice of the board. The duplicate should be so marked, and when handing it to the applicant the fees for issuing the duplicate and a receipt therefor should be obtained.

Sect. 69 of the Bills of Exchange Act, 1882, deals with the replacement of lost bills, and from this it appears that no claim may be made under an indemnity unless some loss is suffered through the finding of the lost document. If it is merely delivered up to the proper owner there is no loss. If the shareholder had not endorsed the warrant, then no valid claim lies against the company by anyone who subsequently becomes possessed of the warrant, because the shareholder's endorsement would have to be forged in order to put the warrant in circulation; nevertheless the company cannot take any risks, e.g. the shareholder might have endorsed the warrant before he lost it, or might find the warrant and put it into circulation—therefore the company requires an indemnity, supported by a guarantee if the amount involved is large.

6. **Lost Income Tax Counterfoils of Dividend Warrants.** Occasionally, members lose the upper portion of their dividend warrants, and as these are necessary where members claim repayment of the tax deducted from the dividend, applications for duplicates may be received. Some companies refuse to issue such duplicates and state so on their dividend notices. However, if it is the practice of the company to issue such duplicates, the applicant should be requested to send a letter declaring his loss, and requesting duplicates. Reference should be made to the register of members to ascertain that the applicant was a member during the period for which duplicates are required,
and the necessary figures will be found from the dividend lists for those periods. (See also page 217 regarding dividends on bearer securities.) Sometimes a supply of unused dividend warrant counterfoils is preserved for making duplicates, but if none is retained, or if the stock is exhausted, the document should be made out somewhat in the form appearing below. A charge of 1s. is usually made for issuing each duplicate. Duplicates should be issued to members only, and not to their agents. If a member wishes the duplicates to be issued to his agent, he should give the company authority to do so in writing.

Duplicate

EXEMPLARY COMPANY, LIMITED

DIVIDEND ON ORDINARY SHARES

for the year ended 31st December, 19...

A. MEMBER, Esq.,
10 Lowton Street,
St. Mary's, Highshire.

Dividend at 10 per cent on 100 Shares of £1 each. £ 10 – –
Less Income Tax at 9s. in £ . . . . . 4 10 –

Net Dividend payable £5 10 –

I CERTIFY that the sum set forth as deducted for Income Tax has been, or will be, duly accounted for by the Company to the proper officer for the receipt of taxes.

For and on behalf of the Exemplary Co., Ltd.,
G. SMART, Secretary.

99 Lune Street, E.C.1
25th May, 19...

Filing of Statutory Declarations, etc.

A convenient method of filing such documents as statutory declarations, letters of indemnity, and guarantee, is to keep the documents and correspondence relating to each particular case in a suitably docketed envelope. Each envelope and document should be numbered and this number quoted in the register
of deeds and documents, wherein particulars of the
documents should have been entered. The envelopes
should then be filed in numerical order and kept in a
safe or strong room. The same system can be adopted
for preserving and filing all manner of legal documents.

Effect of Death, Bankruptcy, or Lunacy of a Party
to a Transfer

1. DEATH. (a) Of Transferor. The death of the
transferor does not affect the validity of the transfer,
whether it be under hand or under seal, because the
making of the transfer passes the interest of the trans-
feror to the transferee as from the date of sale. It is
therefore quite in order to register a transfer even after
notice of the death of the transferor. If a long time has
elapsed between the date of the transfer and the date
it is presented for registration, inquiries should be made
to ensure that the transfer is quite in order.

(b) Of Transferee. Obviously a deceased person can-
not be registered as a member. If notice of the trans-
feree’s death is received, and the death occurred prior
to registration of the transfer, the personal representa-
tives of the transferee should be communicated with.
If the transferee had been registered after the date of
his death, his name should be struck out with a note of
explanation. It would not be safe to rely on the original
transfer and to register the personal representatives in
pursuance of a letter of request by them, or a transfer
by themselves as representatives to themselves as
members, for this procedure is applicable only where
the deceased was a registered member. The best course
to adopt is for the transferor to execute a fresh transfer
to the transferee’s personal representatives as members
(they cannot be registered as representatives), and the
representatives will subsequently reclaim the stamp
duty on the original transfer.

(c) Of a Joint Transferee. Where a transfer is to
joint holders and one or more of them dies before registration of the transfer, the survivor(s) should be registered on production of evidence of death of the deceased transferee(s), because on the death of a joint holder, his interest in the holding passes to the survivor(s). If all the joint holders die before registration of the transfer, the representatives of the last surviving joint holder will be entitled to the benefit of the transfer, and the matter should be dealt with as though a sole transferee had died before registration, as outlined under the previous heading.

2. Bankruptcy. With the object of preventing a debtor from realizing his assets and squandering the proceeds, or making transfers with the intention of fraudulently preferring creditors, Sects. 44, 45, and 46 of the Bankruptcy Act, 1914, make void certain transfers made after the commencement of the bankruptcy. The company will not usually be in a position to ascertain whether the transfer is or is not void, and the company will not be liable in any way if it registers a transfer which is void. If the trustee in bankruptcy succeeds in upsetting a transfer, the company must rectify the register in pursuance of the Order of Court declaring the transfer void, and the company is not liable in any way to the other party, who must seek his redress from the estate of the bankrupt.

3. Lunacy. A person found lunatic by inquisition cannot be bound by any contract for the sale or purchase of shares made by him (in re Walker (1905)), but a person not so found lunatic by inquisition would be bound unless he or his representatives could prove the incapacity and that the other party was aware of the incapacity at the time the contract was made (Imperial Loan Co. v. Stone (1892), and York Glass Co. v. Judd (1924)). Therefore—

(a) In the case of a person found lunatic by inquisition—if before registering the transfer the company
had notice of the incapacity, it must not register the transfer. If it does so, the entry is of no effect. If notice of the incapacity was received after registration, the register should be rectified, as the entry was ineffective by reason of the disability of the lunatic (or "person of unsound mind," as is now the correct phrase) to enter into the contract of transfer.

(b) In cases other than those where the party is found lunatic by inquisition, the company would not usually be in a position to judge whether a transfer was or was not binding on the lunatic party, but if it had notice of the incapacity it is advisable to delay registration pending a decision as to the validity of the transfer by the parties concerned, and if such a decision was not arrived at after the expiration of two months, it would appear that in pursuance of Sect. 80 the transfer must be registered (or registration refused where the articles so empower) within two months after the date of presentment for registration. If the transfer had been registered before notice of the incapacity reached the company, the company on receiving such notice would not be justified in rectifying the register, and the party seeking to have the transfer set aside must obtain an Order of Court declaring the transfer void before any rectification of the register can be attempted.

Exchange Control Act, 1947

At the outset of the Second World War it became necessary to restrict dealings in stocks, shares, and other securities, except between residents within the scheduled territories. The list of these varies from time to time, and reference should be made to the various circulars issued by the Bank of England for the guidance of secretaries. The matter is now controlled by the Exchange Control Act, 1947. All persons outside the scheduled territories are known as
"non-residents." Until 10th January, 1955, every form of transfer bore on its reverse side the Forms D.1 and D.2 which transferors and transferees, being residents in the scheduled territories, were required to have signed by a stockbroker, a solicitor, or an authorized bank. Form D has now been abolished. In its place are the simpler requirements of the Forms 1, 1(a), 2 and 2(a), to be found set out on pages 202–3.

All that a company's registration official need now do is to see that every transfer lodged for registration bears the stamp of an "authorized depositary"—stockbroker, solicitor or bank, as before. It is the duty of these authorized depositaries to vouch that the transfer complies with the regulations. This will cover the vast majority of transfers. If the transfer is not so stamped then it must bear the declarations, each signed by an authorized depositary, that the transferor or transferee, as the case may be, is not a non-resident or acting for one. Failing such declarations, the transfer must be accompanied by the special permission of the Bank of England.

Applications for shares or debentures are still required to bear a declaration by or on behalf of the applicant that he is not a non-resident or acting for one. This also applies to registration application forms on renounceable allotment letters, letters of right, etc. Where there is a large public issue, however, special permission may be obtained by the company to dispense with the declaration provided the forms bear the stamp of an authorized depositary.
EXCHANGE CONTROL ACT, 1947

Title of Security*

Nominal Amount say, .........................

1. To be completed on behalf of the Transferor(s).

(If this declaration cannot be made, Declaration 1(a) must be completed.)

The holder(s)* of the above-mentioned security is/are not resident outside the Scheduled Territories* and from facts known to us or from inquiries we have made is/are not to the best of our belief holding the security as the nominee(s)* of any person(s) resident outside those Territories.

Stamp and Signature of Authorized Depositary*
or Temporary Recipient*†

Address

. . . . Date . . . .

1(a). To be completed only if Declaration 1 above cannot be made.

Licence . . . No. examined.

Stamp and Signature of Authorized Depositary*

Date . . . .

2. To be completed on behalf of the Transferee(s).

(If this declaration cannot be made, Declaration 2(a) must be completed.)

The transferee(s) is/are not resident outside the Scheduled Territories* and from facts known to us or from inquiries we have made is/are not to the best of our belief acquiring the security as the nominee(s)* of any person(s) resident outside those Territories.

Stamp and Signature of Authorized Depositary*
or Temporary Recipient*†

Address

Date .

** This Form is to be used for securities which are—

(a) registered in the Scheduled Territories* otherwise than in a Subsidiary Register* and on which interest or dividends are not payable by coupon, and

(b) not Prescribed Securities.*
EXCHANGE CONTROL ACT, 1947 (contd.)

2(a). To be completed on behalf of the Transferee(s) only if Declaration 2 cannot be made.

The transferee(s) is/are permanently resident in .... (country) AND, from facts known to us or from inquiries we have made, to the best of our belief—

DELETE (a) is/are not a nominee(s).*
(b) is/are a nominee(s)* of a person(s) permanently resident in .... (country).
(c) the transfer is not made to or for the benefit of an enemy subject(s) resident outside the Scheduled Territories.*

Stamp and Signature
of Authorized
Depositary*
or Temporary
Recipient*†

Address ... ... ... ... ... ... ...
Date ...

WE CERTIFY that this transaction is a bona fide purchase for full value in the ordinary course of business and that the full consideration money—

DELETE (i) has been/will be debited to, or is eligible for credit to, a .... Account.
(ii) has been provided by the realization of other securities sold for that purpose under Licence No.

Stamp and Signatures§ Date ...

Where (i) is completed, the above certificate must be signed by a bank in the United Kingdom, the Isle of Man or the Channel Islands, or by the Public Trustee. Where (ii) is completed, the certificate must be signed by an Authorized Depositary* or Temporary Recipient.*†

Authorized for the purposes of the Exchange Control Act, 1947,

(Authorization is not required when Declaration 1 or 1(a) and Declaration 2 have been completed.)

Stamp and Signature of Authorized Depositary* Date ...

Date .... ...

* Defined in Notice E.C. (Securities) 1 and 6 (amendment No. 2) issued by the Bank of England.
† Temporary Recipients must indicate their classification, e.g. "Members of the Birmingham Stock Exchange," "Exempted dealers in securities under the Prevention of Fraud (Investments) Act, 1939."
CHAPTER X
PAYMENT OF DIVIDENDS

Organizing the payment of dividends and debenture interest constitutes an important part of the company secretary's duties, and he should know how to conduct such work correctly, methodically, and expeditiously. The procedure involved is dealt with in this chapter.

Prior to the annual general meeting, the directors usually decide what dividend (if any) shall be recommended to be paid. (Articles invariably contain a clause to the effect that no dividend shall exceed the rate recommended by the directors; for example, clause 114, Table A.) In the case of preference shares and preference stock, the rate of dividend will, of course, be fixed. At the same time as the board determines what dividends shall be paid, a resolution is passed closing the transfer books for the purpose of balancing the share registers and preparing the dividend warrants (see page 187). The transfer books are frequently closed for a period, usually fourteen days, expiring on the date of the annual general meeting. This enables the share registers to be balanced to ascertain the names of the members entitled to receive notice of the annual general meeting and payment of dividends, and also affords time to prepare the dividend warrants in readiness for posting, on the dividend resolution being passed at the annual general meeting (see page 333). Many companies make a practice of paying interim dividends on regular dates, and quite a large number of companies pay their preference dividends half-yearly on certain specified dates. In these cases the interim or preference dividends are declared at a board meeting.
and the transfer books closed for a short period before the date on which the dividend is to be paid.

It should be observed that dividends are payable to the members registered on the date of the declaration of the dividend (Eastern Union Railway Co. v. Symonds (1860)) unless the dividend resolution provides otherwise. But if the resolution is worded "payable on . . . . 19. . ." the dividend would be payable to those members registered on the date of the resolution because the direction concerning date of payment merely refers to the date those members are to receive payment, and therefore, if it is desired to make the dividend payable to the members registered on a future date, the resolution should be worded "payable to the members registered in the books of the company on . . . . 19. . .," and then the intention is quite clear. Dividends are calculated on the nominal value of the shares irrespective of the amount paid up, unless the articles provide otherwise (Oakbank Oil Co. v. Crum (1883)).

**Procedure on Payment of Dividends on Registered Shares or Stock**

1. On the closing of the transfer books, dispose of all transfers awaiting registration, and balance the share registers.
2. Draft the form of dividend notice and warrant, which will require to be approved by the company's bankers and have a sufficient number of copies printed. The warrants must also be stamped twopence each, and for this purpose they are lodged at one of the Inland Revenue stamping offices with a remittance for the total duty payable. If too many warrants are stamped, the duty paid can be recovered on returning the surplus warrants to the stamping office. A specimen dividend warrant is given on the next page. Warrants for different dividend payments can be distinguished by using different colours of paper, or by means of a number
Form of Dividend Warrant

EXEMPLARY COMPANY, LIMITED

No. ........ ................................. 19...

99 Lune Street,
LONDON, E.C.1.

To (Name and address of shareholder)

(INTERIM) DIVIDEND ON ORDINARY SHARES FOR
THE (HALF) YEAR ENDED .......................... 19...

Dividend at 10 per cent (per ann.)
on ...................................... shares registered in
your name ........................................... £ : :
LESS INCOME TAX AT ........... in the £ : :

NET AMOUNT OF WARRANT ANNEXED £

The Warrant requires your signature at the foot.

It is hereby certified that the sum set forth as deducted for Income Tax, has been, or will be, duly accounted for by the Company to the proper officer for the receipt of taxes.

Shareholders claiming exemption from, or return of Income Tax, are informed that the Inland Revenue Authorities will accept this statement as evidence of deduction of Income Tax, and it should therefore be preserved. Should a duplicate be required, a fee of 1s. will be charged.

G. SMART,
Secretary.

EXEMPLARY COMPANY, LIMITED

DIVIDEND ON ORDINARY SHARES

No. .................

............................... 19....

WEST BANK, LTD.,
41 Oldbury, LONDON, E.C.3

PAY .............................................. or Order,

the sum of ......... .......................... £

Signature of payee ................................

For and on behalf of the Exemplary Co., Ltd.

.................................Director.

.................................Secretary.
in bold figures printed in a prominent position on the warrants.

This latter method is more usual and practical. Different colours of warrants may be used for distinguishing dividends on different classes of shares.

3. Prepare a list of members on the appropriate date, showing the gross dividend, tax deducted, and net dividend due to each member. Specimen dividend lists are given on the following two pages. The calculations of the dividends and tax deducted should be individually checked and totalled, and the total of the gross dividend column should agree with the gross dividend on the whole of the issued capital on which the dividend is being paid, and the totals of the tax deducted and net dividend columns should together equal the amount of the gross dividend. The entries in the dividend list should be numbered consecutively, and these numbers should be noted on the dividend warrants to facilitate reference.

4. Write out the dividend warrants, check them, and pass them for signature. Arrangements are usually made with the bankers for the signature of the secretary or other responsible official to be accepted, to obviate the necessity for the warrants to be signed by the directors, as would be usual in the case of cheques. Some companies print the signatures of the directors on the dividend warrants, which are countersigned or initialed by the secretary or other officer.

5. Open a special dividend account at the bank, and credit it by transfer from the general account of the total amount of the dividend payable, and instruct the bankers to debit all dividend warrants to this account, and to state in the pass book the numbers of the dividend warrants, for purposes of checking. The bankers may be provided with a list of warrants issued, and be instructed to mark off the warrants as presented and paid.
**Ruling of a Simple Dividend Sheet**

**ORDINARY SHARES**

DIVIDEND at .....% per annum, payable on ......................, 19......, in respect of year ended .......................  

<table>
<thead>
<tr>
<th>Folio</th>
<th>Warrant No.</th>
<th>Name</th>
<th>Address</th>
<th>Holding</th>
<th>Gross Dividend</th>
<th>Tax at 9s.</th>
<th>Net Dividend</th>
<th>Date Paid</th>
<th>Remarks</th>
</tr>
</thead>
</table>
Ordinary Shares at 10%. Preference Shares at 6%. Dividends payable on "..." 19... in respect of the year ended ... 19..." Dividends, Net at Date Paid, Total, Tax at Date Paid.

Table heading: Remarks

Ruling of a Combined Dividend Sheet
As a special dividend account will be opened for each dividend payment, each dividend payment is usually distinguished by a number which is printed on the warrants, and forms part of the title of the account, for example, "Dividend Account No. 23."

6. The warrants are then dispatched to the members, and the clerk responsible for posting them should initial the dividend sheets and certify on each the total number of warrants posted, and the date and time of posting. Posting of the warrants constitutes payment by the company (Thirlwall v. Great Northern Railway Co. (1910)).

7. Check due payment of the dividend warrants. This may be done—

(a) By instructing the bankers to enter in the pass book the numbers of the dividend warrants presented and paid, and then the secretary marks off the dividend list with the dates appearing in the pass book against each warrant number.

(b) The actual warrants paid may be collected from the bank, arranged in numerical order, and marked off accordingly on the dividend list.

(c) The bankers may be provided with a copy of the dividend list and instructed to mark off the warrants as paid.

8. In due course, bind the dividend sheets together, have them endorsed to show the dividend to which they relate, and carefully preserve them.

Miscellaneous Points

In the case of a company with different classes of shares and debentures, it is sometimes found that many members have holdings of more than one class of shares, or shares and debentures, and in such cases it is both
expedient and economical to arrange that all dividend and debenture interest payments be made on the one date, and to forward to such members one cheque to cover the whole of the payments to which they are entitled. This will necessitate some co-ordination of the holdings of the various members (this question is dealt with on page 84), and also a combined dividend list somewhat on the lines of the specimen shown on page 209.

If a cash bonus is paid in addition to the dividend, a special column should be ruled to show the bonus. Tax at the standard rate must be deducted from the dividend and bonus, and the upper portion of the dividend warrant should show the amount of the bonus separately, although the deduction of tax from dividend and bonus can be done by one operation.

Where a company has a dominion register or registers, it is recommended that a separate dividend list be prepared for each dominion from the branch registers at the head office of the company, and a sum sufficient to pay the dividend to the members in each dominion be remitted to the company’s banker’s agent or representative in each dominion, the dividend warrants being suitably endorsed so as to be made encashable in the dominion on presentation to the bank’s agent or representative. The dividend warrants should be sent together, to the dominion secretaries, who will be better acquainted with the correct addresses of the members resident in the dominions, and they will issue them to the members. When preparing the dominion dividend lists, it will be necessary to ascertain by cable or telephone whether any removals from the dominion to the principal register are in transit on the dividend date, and if so, the dividend list will have to be amended accordingly. Alternatively, it could be arranged that all applications for removal be made not
later than, say, one month prior to the annual dividend
date so as to allow the removals to be effected in time
for the preparation of the dividend warrants, so that
as regards applications lodged after the date pre-
scribed, the dividends in respect of the shares would be
payable only in the dominion.

When organizing payment of dividends and interest,
full use should be made of the various labour-saving
devices at the disposal of the secretary. Addressing
machines can be used for inserting names and addresses
on dividend lists, warrants, and counterfoils, and address-
ing envelopes (alternatively, window envelopes could
be used). Adding typewriters can be used for inserting
amounts in the warrants, calculating machines for
calculating the dividends and tax deducted, cheque
writers for inserting amounts and figures in the war-
rants, etc. Tables can be prepared in advance showing
the gross, tax, and net amounts in respect of any
holding, from one share or £1 of stock upwards, and
these will greatly facilitate the work of compiling the
dividend lists.

If many members have holdings of the same amount,
it may save time if a sufficient number of warrants are
printed with the figures and amounts appropriate to
such holdings.

Care should be exercised in drafting dividend war-
rants to ensure that the manner in which the dividend
is calculated is quite clear, particularly in the case of
interim or half-yearly dividends, as some warrants are
merely worded “Dividend for the half-year ended
.............19.. £...........,” or if the percentage is
shown, in some cases it is not stated whether the per-
centage is actual, or whether it is per annum. Such
deficiencies are apt to be very confusing to persons who
have to handle the warrants.

Where there are several classes of shares, or shares
and debentures, the upper portion of the dividend
warrant will be drawn in the form of a schedule, on the following lines—

(HALF) YEAR ENDED ...................... 19....

A" PREFERENCE SHARES
Dividend at 6% (per ann.) on...........shares. £ : :

B" PREFERENCE SHARES
Dividend at 7½% (per ann.) on......... ,, . £ : :

ORDINARY SHARES
Dividend at 8% (per ann.) on .......... ,, . £ : :

DEBENTURE BONDS (STOCK)
Interest at 5½% (per ann.) on £.............. . £ : :

GROSS TOTAL . £ : :

LESS INCOME TAX at. .......... .. in £ . £ : :

NET AMOUNT OF WARRANT HEREWITH £ : :

This form of warrant would obviate the necessity for printing separate warrants for each class of share, or debentures, as well as enabling all the dividends and interest payments due to persons holding more than one class of security to be collected together, and one warrant sent to cover the whole.

Payment of Dividends to Shareholders’ Bank Accounts

Many shareholders who have a banking account, request that their dividends be credited direct to their banking accounts. This saves the shareholders the trouble of endorsing their warrants and attending to the collection of them, and it also saves the secretarial department a not inconsiderable amount of clerical work, and stamp duties on warrants, so much so that many companies ask all new members to consent to their dividends being paid direct to their banking accounts. It is obvious that if the company had to forward the warrants to the particular branches of each bank where the accounts of shareholders were kept, the only saving would be a small amount of postage, and so the essential point of the system for crediting dividends direct to shareholders’ bank
accounts is that the company makes arrangements with the head offices of the various banks whereby one cheque for the total dividend payable to customers of each bank is handed to its head office, which in turn makes arrangements for the dividends to be credited to the shareholders' accounts at the various branches where they are kept. Dividends should be credited direct to members' banking accounts in this manner, only on the written request or authority of the members, and many companies provide a special form of request for this purpose. Such forms of request or authority are usually known as "dividend mandates," and the method of dealing with them is as follows: Where members wish their dividends to be paid direct to their bank accounts, a note of the fact is recorded in the share register, and the index, and when the dividend lists are being compiled, the names of their bankers are stated in the "Remarks" column, and with this information, lists of the dividends to be paid to each bank can then be made out to send to each banker concerned. Alternatively, analysis columns for each bank can be added to the dividend lists, the amounts of the net dividends payable to each bank being entered in these columns. In order to check the analysis, another column should be provided to record the dividends payable direct to the members, and the totals of all the analysis columns should agree with the total net dividend payable. A list of the dividends to be paid to each banker is then prepared from the analysis columns. These lists, accompanied by a cheque for the amount payable to each bank, are then forwarded to the head offices of the various banks together with certificates of deduction of tax showing each shareholder's name, address, gross dividend, tax deducted and net amount. The head office of each bank then sorts the certificates according to the branches at which the shareholders have their accounts, and
PAYMENT OF DIVIDENDS

forwards the certificates to those branches, who credit shareholders’ accounts and then send the certificates to the shareholders concerned, the branch endorsing each certificate to show that the amount has been credited to the shareholder’s account.

Where a number of dividends are paid direct to bankers, a number of warrants should be left unstamped, as only the upper portions (which are not dutiable) will be needed, because each bank receives only one cheque for the total dividends payable to its customers.

It may be added that a certain great British corporation has adopted a novel system to induce transferees to have dividends credited to their bank and Post Office accounts. On the front of each transfer lodged for certification is stamped in red ink the following notice to transferees: “If this is a first purchase of this security your attention is drawn to the Dividend Mandate stamped on the back hereof.” On the reverse side of the transfer is stamped in black: “To the Secretary, X Company Limited. Please send dividend warrants on the within-mentioned sum of stock or on the amount which may hereafter so stand to . . . (Name and Address of Bank or other Agent).” This dividend mandate is signed by all the transferees.

The idea is a useful and a successful one, and could with great advantage be used by all companies that certify a fair number of transfers.

Income Tax Requirements

Sect. 33 of the Finance Act, 1924, provides that every dividend warrant must have annexed a statement showing (a) the gross amount which, after deduction of income tax appropriate thereto, corresponds with the net amount actually paid; (b) the rate and amount of tax appropriate to such gross payment; (c) the net amount actually paid. All this information is disclosed in the specimen dividend warrant shown on page 206,
as the dividend was for purpose of illustration deemed to be a dividend declared "less tax" (a dividend is always deemed to be "less tax" unless it is declared to be "free of tax"). Where a dividend is declared to be "free of tax" the wording of the upper portion of the warrant would have to be altered as follows in order to comply with Sect. 33—

| Dividend at .......... % (per ann.) free of tax on .............. shares registered in your name | £ | : | : |
|---|---|---|
| This is equivalent to a gross amount of | £ | : | : |
| Less tax thereon at ............ in £ | £ | : | : |
| **Net Amount of Warrant** | £ | : | : |

To obviate the necessity for writing on the warrant counterfoils the gross equivalent and tax deducted, some companies prepare tables showing this information for holdings of any and every amount, and have such tables printed on the back of the upper portions of the dividend warrant, showing only the net dividend on the front, the gross equivalent and tax deducted being easily ascertained on reference to the table at the back.

The penalty for failure to comply with the provisions of Sect. 33 is £10 for each warrant issued without the requisite statement annexed, with a maximum penalty of £100 in respect of each distribution of dividend.

Preference dividends cannot be declared "free of tax" unless the conditions of issue make the rate "free of tax." The expression "free of tax" is really a misnomer, because all dividends are taxable. The actual effect of a dividend declared to be "free of tax" is just the same as declaring a proportionately higher dividend "less tax"; in other words, the dividend declared is the actual net amount to be distributed after deduction of tax. No purpose is therefore served in declaring dividends "free of tax," and
such declarations only impose additional work on the secretarial department.

Payment of Dividends on Share Warrants to Bearer

Share warrants may be issued with or without dividend coupons annexed. If coupons are annexed they will be distinguished by numbers, as it would not be possible to distinguish them by dates because dividends may not be paid regularly. If the first dividend payment is being made, coupon No. 1 will be detached, and so on until all the dividend coupons have been used. A further coupon known as a "talon," is also annexed to the share warrant, and on surrendering the "talon" a new set of dividend coupons will be issued to the holder of the share warrant. Each set of coupons will also have a "talon" annexed, so that when all those coupons have been used a further supply may be obtained. On a sale of shares represented by a share warrant, the share warrant is not a good delivery unless all unused coupons are annexed.

For purpose of identification, all share warrants are numbered, and the number of the share warrant appears on all coupons annexed to it or supplied subsequently on surrender of a "talon."

When share warrants are issued, a register thereof is kept showing the number of the warrant, the name of the holder, value, and distinctive numbers (if any) of the shares comprised therein, date of issue, etc., and from this record the total amount required to pay any particular dividend can be ascertained.

The procedure for payment of dividends on share warrants will vary slightly according to whether dividend coupons are or are not annexed, as is shown in the following outline of the procedure.

1. When the resolution declaring the dividend is passed, advertise the fact, calling on holders of share
warrants to deposit the appropriate coupon (or to deposit their warrants where dividend coupons are not annexed) with the company's bankers for verification prior to payment of the dividend. A specimen of such an advertisement, to meet either case, is as follows—

EXEMPLARY COMPANY, LIMITED

HOLDERS OF SHARE WARRANTS TO BEARER IN THE ABOVE COMPANY are hereby informed that in accordance with the resolution passed at the Annual General Meeting, held on 15th May, 19..., a (Final) Dividend of 5s. per share, less income tax, for the year ended 31st December, 19..., will be payable on or after 31st May, 19..., at the West Bank, Ltd., 41 Oldbury, London, E.C.3, on presentation of Coupon No. 45 (Share Warrants).

Coupons (Share Warrants) must be listed on forms which will be provided by the Bank, and must be left four clear days for examination.

By Order of the Board.

99 Lune St., E. C.1.    G. SMART, Secretary.
20th May, 19....

The articles may prescribe particular newspapers in which the advertisement is to appear, and may also provide as to the number of insertions.

Some companies require the coupons or warrants to be deposited at their registered office, and not at their bankers.

2. From the register of share warrants issued, prepare a list showing numbers of warrants, value of shares comprised in each, gross dividend, tax deducted, and net dividend payable in respect of each warrant. Check the calculations and castings.

3. Draft, and have printed and stamped, a sufficient number of dividend warrants, and also listing forms and coupon tickets. The dividend warrants should show the share warrant numbers, the names of the holders being inserted afterwards from the details recorded on the listing forms which consist simply of a statement of the name and address of the warrant
holder and the number(s) of the coupon(s) or share warrant(s) deposited with the bankers. Each dividend warrant must, of course, have annexed the usual statement of gross dividend, tax deducted, and net dividend, in compliance with Sect. 33 of the Finance Act, 1924.

4. Credit a special dividend account at the bank with a sum sufficient to meet the dividends due on the warrants. In the case of those companies whose shares are issued partly as registered shares, and partly in the form of share warrants, the one dividend account will suffice for payment of dividends on both classes.

5. As the coupons are presented for payment, receipts, known as "coupon tickets," are issued (or where share warrants are deposited, "lodgment receipts" are issued), and after verification of the coupons or warrants, for which purpose three or four days are usually stipulated, dividend warrants, accompanied, of course, by a statement showing the tax deducted, are issued on surrender of the coupon ticket (or where share warrants were deposited, the share warrants are endorsed with a rubber stamp "Dividend No............paid on............., 19....," and returned to the persons lodging the same, together with the dividend warrant, on surrender of the lodgment receipt). As the dividends are paid, the list of share warrant dividends is marked off accordingly. All this work can be, and is usually, entrusted to the company's bankers, who are furnished with listing forms, coupon tickets (or lodgment receipts) and signed dividend warrants complete with income tax vouchers, and the bankers would issue the dividend warrants after verification of the coupons or share warrants. Verification consists of verifying the coupon number with the number of the share warrant issued, and scrutinizing the coupon (or share warrant where such are surrendered) to guard against forgeries or counterfeits. It is at times when
dividends are paid that any warrants supposed to be lost may be found to be still in circulation. On the issue of a duplicate, in the place of a lost warrant, the duplicate and coupon (if any) annexed bears a different number from that of the lost warrant. Should coupons from the lost warrant (or the lost warrant itself) be lodged, payment of the dividend should be stopped and inquiries made to ascertain how it comes to be in circulation, and it will be necessary to communicate with the person to whom the duplicate was issued.

6. The share warrant dividend lists are subsequently bound, endorsed, and carefully preserved. As to method of filing paid coupons, see page 222.

It should be noted, however, that the issue of share warrants to bearer is now subject to Treasury permission under the Exchange Control Act, 1947. The Exchange Control Act provides that no person may issue except by Treasury permission any bearer bond, share warrant to bearer or other similar document of title in which ownership passes by mere delivery. The Treasury embargo consequently also extends to bearer debentures, discussed below.

While the Exchange Control Act, 1947, operates, all share warrants must be deposited with an "Authorized Depositary," which collects the dividends for crediting to the account of the owners of the share warrants.

**Payment of Interest on Bearer Debentures**

1. Coupons are always annexed to bearer debentures, and the interest will be payable on definite dates stated on the coupons, usually half-yearly. Payment of the interest is advertised beforehand, holders being instructed to lodge their coupons, usually at the company’s bankers, for verification and payment. A specimen advertisement is given on the next page.
EXEMPLARY COMPANY, LIMITED

NOTICE TO HOLDERS OF 5 PER CENT DEBENTURE BONDS TO Bearer.

Notice is hereby given that Coupon No. 39 for the half-year's interest due on 1st June, 19..., will be payable, less income tax, at West Bank, Ltd., 41 Oldbury, London, E.C.3.

Coupons must be left four clear days for examination, and listing forms may be obtained on application at the bank.

By Order of the Board.

99 Lune St., E.C.1. G. Smart, Secretary.

14th May, 19... 

2. From the register of bearer debentures issued, prepare a list showing the number and value of each, gross interest, tax deducted, and net interest payable. Check calculations and castings.

3. Draft and have printed and stamped a sufficient number of interest warrants, with a statement annexed showing the gross interest, tax deducted, and net amount. The numbers of the bearer debentures will be stated on the interest warrants, the names of the payees being inserted subsequently by the bankers, from the details appearing on the listing forms which are completed by the persons lodging coupons for payment.

4. Credit a special interest account at the bank with a sum sufficient to meet the total interest payable, and instruct the bankers as to the verification and payment of the coupons, providing them with a list of coupons payable, and the completed interest warrants, listing forms, and coupon receipts.

5. As the coupons are presented for payment at the bank the bank issues a coupon receipt, and after the expiration of the time stipulated for verification, if the coupons are found to be in order, the interest warrants with income tax voucher annexed are issued in exchange
for the coupon receipt, and the bank will mark off the
list of coupons payable accordingly.
6. The coupon lists are then bound, endorsed, and
filed away, and the paid coupons should also be filed
in manner outlined below.

Filing of Paid Coupons from Bearer Debentures
and Share Warrants
The paid coupons detached from these documents
can be filed in various ways—

(a) The coupons relating to each payment of interest
or dividend are arranged in numerical order and
secured by a band or clip. If some coupons have not
been presented, and paid, a slip of paper bearing an
indication of the reason why the coupon is missing, for
example, "No. 534—not presented," "No. 560—
reported to be lost—duplicate No. 589 issued in its
place," etc., may be inserted in the place of the missing
coupon.

(b) The coupons relating to each payment can be
pasted in numerical order on a sheet or sheets of paper
ruled off into spaces sufficient in size to accommodate
the coupons and numbered to correspond therewith.
Missing coupons and their respective numbers will thus
be revealed at a glance by the fact that such coupons
would not be pasted in the relevant numbered space.

(c) Sheets bound in book form, and ruled with num-
bered spaces sufficient to accommodate all the coupons
relating to one share warrant or bearer debenture, can
be used. Each sheet will be numbered to correspond
with a debenture or share warrant, and the spaces
numbered to correspond with the numbers of the
coupons. As the coupons are paid they are pasted in
their correct positions on the appropriate sheet, each
sheet thereby constituting a record of the paid coupons
of each debenture or share warrant.

When asked to issue duplicate income tax vouchers
in respect of interest or dividend payments under bearer securities, the secretary must, of course, verify that the applicant for the duplicate was the person receiving the payment in respect of which the duplicate is required, and his only means of doing this is possession of either the listing forms and coupon tickets which would bear the names and addresses of the persons claiming the dividend or interest payments on each occasion a payment was made, or the dividend or interest warrants which would bear the payees' endorsements. Some companies leave the paid dividend or interest warrants, listing forms, and coupon tickets (or lodgment receipts) with their bankers; others require the bank to hand over these documents.

The listing forms, with surrendered coupon tickets (or lodgment receipts) annexed, and the paid dividend or interest warrants, can be filed in alphabetical or numerical order, whichever is thought more convenient.

**Issue of New Sheets of Coupons in Exchange for “Talons”**

When all the coupons annexed to bearer securities have been used, if the securities are to remain in force, it will be necessary to issue new sheets of coupons. Each new sheet of coupons will also have a “talon” annexed, to be surrendered in exchange for a further supply of coupons when that sheet is used. The procedure on issuing new sheets of coupons is as follows—

1. A list of the bearer securities is drawn up showing the number of each document.

2. The number of coupons to be comprised in each sheet is decided, and the sheet is then drafted for handing to the printers. Each coupon will bear the name of the company, particulars of the nature of the security, the number of the document to which it is annexed, a statement of the purpose for which the coupon is to be
used, for example, "coupon for dividend on ordinary shares," "coupon for half-year’s interest on 5 per cent bearer debenture stock payable on ................ day of .................. 19...," and the coupons in each sheet are numbered consecutively, being so arranged that coupon No. 1 on each sheet is the first to be detached, coupon No. 2 the second, and so on. Each sheet will also contain a "talon." The entire sheet is usually engraved to make forgery difficult. The draft is then passed on to the printers with the necessary instructions as to numbering the sheets, which will, of course, bear the same numbers as the securities to which they are to be annexed.

3. An advertisement, informing holders of the debentures or share warrants that new sheets of coupons will be issued in exchange for talons, is then inserted in such a newspaper as The Times. This advertisement is usually incorporated in the advertisement concerning the payment of dividend or interest which is payable on presenting the last coupon of the old series, but for purpose of convenience, the date for issuing new sheets of coupons is often fixed about a month or so after the dividend or interest date. The advertisement will instruct the holders to lodge their talons with the company’s bankers, who will have been previously instructed to conduct the work of issuing the new sheets of coupons. After verifying the talons lodged, the bankers will issue the new sheets of coupons, the persons to whom the coupons are issued signing a receipt therefor endorsed on the talon.

4. The surrendered talons will then be collected from the bankers and filed along with the coupons to which they relate (see page 222).

Unclaimed Dividends

The amount of unclaimed dividends after any particular distribution will appear by the balance remaining
to the credit of the dividend account at the bank, and the total should be verified by comparison with the dividend sheets. Being specialty debts, the Statute of Limitations will not make the dividends irrecoverable against the company until a lapse of twelve years after they became due (Drogheda Steam Packet Co. (1903), Artisans' Land and Mortgage Corporation (1904)). Articles may provide that unclaimed dividends may be forfeited after a certain number of years, but the Stock Exchange object to any such provision. Most articles provide that unclaimed dividends shall not bear interest against the company (clause 122, Table A). It was held in Burnham v. Atlantic and Pacific Fibre Importing and Manufacturing Co. (1928) that the insertion in a company's balance sheet of unclaimed debenture interest constituted a sufficient acknowledgment of the company's liability to prevent the Statute of Limitations running in favour of the company, and it can be accepted that this ruling would also be applicable to unclaimed dividends.
CHAPTER XI
ALTERATIONS OF CAPITAL

In this chapter the secretarial duties incidental to various alterations of capital are dealt with fully.

Procedure on Increase of Capital

1. Articles must authorize increase of capital, and the power can only be exercised in general meeting (Sect. 61). Power to increase the issued capital, but not to increase the nominal capital may be vested in the directors. Increase of capital may be effected by issuing preference or other shares unless the memorandum forbids such an issue (Andrews v. Gas Meter Co. (1897)), but preference rights must not be interfered with unless the consent of preference shareholders is obtained.

2. An ordinary resolution is sufficient unless the articles provide otherwise. Table A requires only an ordinary resolution (Clause 44).

3. Convene the meeting to pass the necessary resolution. Specimen resolutions will be found on pages 328-9.

4. Within fifteen days after the passing of the resolution, file with the Registrar of Companies a statement of increase on the official form (impressed fee stamp, 5s.), and pay the capital duty of 10s. per cent on the amount of the increase and also, in accordance with the Twelfth Schedule, an amount equal to the difference (if any) between the amount which would have been payable on first registration by reference to its capital as increased and the amount which would have been so payable by reference to its capital immediately before the increase. The statement of increase must (in accordance with Sect. 63) include such particulars as may be prescribed with respect to the classes of shares affected and the conditions subject to which the new
shares have been or are to be issued, and must be
accompanied by a printed copy of the resolution
authorizing the increase. Where the increase was
effectuated by extraordinary or special resolution in ac-
cordance with the company's articles, the filing in due
course of such extraordinary or special resolution pur-
suant to Sect. 143 (see page 333) fulfils the requirements
of Sect. 63 that the statement of increase shall be
accompanied by a printed copy of the resolution. If
default is made in filing the statement of increase,
the penalty is £5 per day, and if default is made in
paying the capital duty, the amount thereof with
interest at 5 per cent per annum from the date of the
passing of the resolution is a debt recoverable from
the company. (Revenue Act, 1903, Sect. 5.)

5. All copies of the memorandum in stock must be
altered to show the increase of capital. (Sect. 25.)

6. If the new capital is to be issued, and it is desired
to have an official quotation for the shares, the per-
mission of the Stock Exchange should be sought. If
a new class of shares is to be issued, the new share
certificates must be printed, and attention given to
such matters as new rulings for share registers, organ-
ization for dealing with applications and allotments, etc.

Procedure on Subdivision of Shares

1. Articles must authorize subdivision (Sect. 61).
If they do not, a special resolution must be passed
incorporating the necessary provision in the articles.
If the shares are quoted, the Stock Exchange should
be informed of the proposed change, and their require-
ments complied with.

2. The power to subdivide shares can be exercised
only in general meeting (Sect. 61 (2)); therefore, when
the board has decided to recommend subdivision and
settled the manner in which the shares are to be divided,
a general meeting must be convened to pass the necessary
resolution. The articles may prescribe an extra-
dinary or special resolution, but otherwise an ordinary
resolution is sufficient. Table A requires only an
ordinary resolution (Clause 45). The notice convening
the meeting is usually embodied in, or accompanied by,
a circular to shareholders explaining the reasons for
the change.

Specimen resolutions for subdivision of shares will
be found on page 329, and it should be observed that
in the case of partly-paid shares the proportion of paid
to unpaid liability must be the same after subdivision
as before. (Sect. 61 (1) (a)).

3. When the resolution for subdivision has been
passed, the procedure involved in order to carry the
resolution into effect will be put in hand—

(a) Close the register of members, for, say, fifteen
days for the purpose of balancing the register and
issuing the new certificates. Advertise the closing of
the register in accordance with Sect. 115. The transfer
books of the original shares will have to be finally
closed, and notice thereof should be inserted in the
financial newspapers, with an intimation that pending
issue of certificates for the new shares, transfers of the
old shares will be accepted for registration, but only
certificates for the subdivided shares will be issued to
the transferees.

(b) On the closing of the transfer books, all transfers
in hand should be registered, the register of members
balanced, and a list of members drawn up showing:
folio, name, address, description, number and distinc-
tive numbers (if any) of old shares held, amount of
holding, number of old certificate, number of new
shares and distinctive numbers (if any) thereof, number
of new certificate, dates of surrender of old certificate,
and issue of new certificate, and a remarks column.

(c) The new share numbers are then allocated (where
this system is still followed), written in the list, checked,
and entered in the register of members to facilitate subsequent dealings with the shares. A rubber stamp worded, for example, "SUBDIVIDED INTO £1 SHARES ON 1ST DEC., 19...." can be used to indicate the change in the share accounts, the stamp being impressed after the last entry in the account and the new details of the holding entered on the next line.

(d) Circularize shareholders calling in the old certificates for exchange. For the convenience of members desiring their certificates to be sent by post or handed to a nominee, forms of authority for this purpose should be annexed to the circular. A specimen circular is appended. Circulars will not, of course, be sent to members who have acquired shares by transfers in course of registration, because they will not have received their certificates, and certificates for the new shares should be issued direct to such members.

*Specimen Circular Calling in Share Certificates for Exchange on Subdivision*

**EXEMPLARY COMPANY, LIMITED**

99 Lune Street,

1st December, 19....

Dear Sir (Madam),

I beg to inform you that by a Resolution passed at the Extraordinary General Meeting held on the 15th November last, it was decided that the existing fully paid Ordinary Shares of £5 each be subdivided into five ordinary shares of £1 each fully paid.

Certificates for shares of the new denomination will be issued in exchange for the present certificates, and members are requested to surrender their old certificates at once so that the exchange of certificates may be completed quickly.

The new certificates will be ready on the third day after deposit of the old certificates, between the hours of 10 and 2 (Saturdays 10 to 12) at the above address.

If you so desire, the new certificate will be sent to you by post, or handed to some other person on your behalf, provided you complete and sign the form annexed hereto, and return it to me accompanied by the old certificate.

The Transfer Books of the £5 Ordinary Shares were finally closed as and from 28th November, and pending exchange of
certificates transfers of the original shares will be accepted for registration, but only certificates for the subdivided shares will be issued to the transferees, so that in the event of your having disposed of your holding prior to the receipt of this circular, you need take no further action as the new certificate will be issued to the transferee, and if you have disposed of part of the holding represented by one certificate, you will receive a certificate for the balance of the new shares to which you are entitled in exchange for the balance ticket issued when the transfer was lodged. If you have retained part of your holding represented by a separate certificate or certificates, these should be at once forwarded for exchange.

By Order of the Board,
For Exemplary Co., Ltd.
G. Smart, Secretary.

To the Secretary, Exemplary Co., Ltd.
Dear Sir,

I/We enclose the following certificates for £5 Ordinary Shares registered in my/our name(s) and request you to issue certificates for £1 shares in accordance with the Resolution for subdivision passed at the Extraordinary General Meeting held on the 15th November, 19....

<table>
<thead>
<tr>
<th>Nos. of Certificates</th>
<th>Number of Shares</th>
<th>Distinctive Numbers</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

1 Please forward the certificate for the new shares to me/us by post at my/our risk.
2 Please deliver the certificate for the new shares to ...............

...........................................of..........................................., whose receipt for the new certificate shall be your sufficient discharge therefor.

Signature ................................

Date.....................................

Address ................................

1 The paragraph not used should be struck out.

Where a company has availed itself of Sect. 74, providing for the omission of distinguishing numbers, columns 3 and 4 will not be included.
(e) Draft and have printed new forms of share certificate, and cancel all old certificates in stock.

(f) As the old certificates are surrendered, they should be at once cancelled, and the date of surrender marked off on the list with a note as to whether the member wishes the new certificate to be sent by post or handed to a nominee. Forms of receipt for surrendered certificates should be printed for issuing to persons lodging certificates by hand.

(g) The new certificates will then be written out, sealed at a properly constituted board meeting, and issued. It is recommended that the new certificates be made out only as and when the old ones are surrendered, and not all together, because changes of ownership may have occurred of which the company has no notice, and moreover, it is not desirable to have in hand a large number of certificates which may not be issued for a considerable time, if members are lax in surrendering their old certificates. Pending sealing and dispatch, the new certificates can be attached to the relevant old certificates together with the shareholder's authority to send the new certificate by post or to hand it to his nominee—this will facilitate checking and issuing of the new certificates. The new certificates should be printed with a slip perforated receipt attached, to be detached and signed by the recipient, and returned to the company. Certificates forwarded by post should be accompanied by a memorandum requesting acknowledgment of receipt of the certificate on the form annexed to it. These receipts should be filed by being annexed to their respective counterfoils in the share certificate book, together with the letter authorizing the company to send the certificate by post or hand it to a nominee.

It may happen that some members will have disposed of part or the whole of their holdings before
receiving the circular calling in the certificates for exchange, and in this case, when the transfers are registered, the new certificates will be issued direct to the transferees (and to the transferors in respect of any unsold balances), and the list should be marked off to indicate the certificates issued in these circumstances. As regards the filing of the surrendered certificates—those that are surrendered in connection with transfers will be attached to the transfer deeds, and those that are surrendered by members retaining their shares, should be cancelled and filed in alphabetical order.

(h) As the new certificates are issued, the date of issue should be marked on the list of members, and the number of the certificate noted in the member’s account in the share register.

(i) After the expiration of a reasonable length of time, those members who have not surrendered their certificates for exchange should be communicated with.

(j) The necessary changes will have to be made in the share register index, unless this is merely an index of names only.

4. Within one month after the passing of the resolution for subdivision, notice thereof specifying the shares affected must be filed on the official printed form (impressed fee stamp 5s.) with the Registrar of Companies (Sect. 62). The penalty for default is £5 per day. Further, every copy of the memorandum in stock must be altered to show the subdivision (Sect. 25).

5. If the articles require a special or extraordinary resolution, the printed copy thereof must be filed with the Registrar of Companies, on the prescribed form (impressed fee stamp 5s.), within fifteen days after the passing of the resolution, and a copy of the resolution annexed to every copy of the memorandum and articles in stock (see page 334).
Procedure on Consolidation of Shares

1. Articles must authorize consolidation, and the power can be exercised only in general meeting. (Sect. 61.)

2. An ordinary resolution is sufficient unless the articles provide otherwise. Table A requires only an ordinary resolution. (Clause 45.)

3. Convene the meeting to pass the necessary resolution. Specimen resolution will be found on page 330.

4. The secretarial duties involved in exchanging the certificates will, *mutatis mutandis*, be the same as those outlined under the heading "Subdivision of Shares" in this chapter, and the following is a brief summary of the procedure—

(a) When the resolution has been passed, close the register of members and transfer books, dispose of all transfers awaiting registration, balance the share register, and prepare a list of members showing folio, name, address, and description, number and distinctive numbers (if any) of old shares held, amount of holding, number of old certificate, number and distinctive numbers (if any) of new consolidated shares, amount of any fractions, number of new certificate (and fractional certificate, if any), and a remarks column.

(b) Allot the new numbers (if any) to the shares and make the necessary changes in the share register.

(c) Circularize members, calling in old certificates for exchange.

(d) Have new share certificates printed, and cancel all old certificates in stock.

(e) As the old certificates are surrendered, prepare the new ones, have them sealed at a properly constituted board meeting, issue them to the members, and obtain and file receipts therefor.

(f) As the certificates are exchanged, mark off the list of members accordingly, and enter the numbers of the new certificates issued in the share register, and
after the expiration of a reasonable length of time send reminders to those members who have not surrendered their certificates for exchange.

(g) Where the consolidation of shares involves fractions, owing to the holdings of some members not being evenly divisible by the rate of consolidation, fractional certificates will be issued to such members. (As to the use of fractional certificates see page 94.) The practice usually adopted on issuing bonus shares, of selling the shares representing the total of the fractions, is not possible on consolidation, as this would amount to compulsory sale of shares, whereas on a bonus issue the practice is a term of the issue.

5. Within one month after the passing of the resolution for consolidation, notice thereof specifying the shares affected must be filed on the official form (impressed fee stamp 5s.) with the Registrar of Companies (Sect. 62). The penalty for default is £5 per day. Every copy of the memorandum in stock must be altered to show the consolidation (Sect. 25).

6. If the consolidation is effected by extraordinary or special resolution in accordance with the terms of the company's articles, a printed copy of the resolution must be filed with the Registrar on the official form (impressed fee stamp 5s.) within fifteen days after the passing of the resolution, and a copy of the resolution annexed to every copy of the memorandum and articles in stock (see page 334).

Procedure on Conversion of Shares into Stock and Reconversion

Only fully paid shares can be converted into stock. The articles must authorize conversion (or reconversion), and the power must be exercised in general meeting (Sect. 61). An ordinary resolution is sufficient unless the articles provide otherwise. Table A requires only an ordinary resolution (Clause 40). Specimen
resolutions will be found on page 331. If the articles do not contain provisions as to transfer of stock, and other necessary provisions (see for example Clauses 41–43 of Table A) opportunity should be taken, when the resolution for conversion is passed, to add the appropriate provisions in the articles, which can be done by special resolution. If the shares have an official quotation, the Stock Exchange should be informed of the proposed change, and its consent obtained. The incidental procedure for exchanging certificates and filing notices of change with registrar, etc., will, mutatis mutandis, be the same as is outlined in this chapter under the heading "Subdivision of Shares."

Many companies, particularly trust companies, now adopt the practice of converting their shares into stock at the earliest opportunity, and other companies are contemplating doing the same, because of the economies which can be effected in the transfer department by reason of the fact that distinguishing share numbers will not be necessary. However, as stated in Chapter VI, Sect. 74 now provides for this difficulty by permitting companies to dispense with distinguishing numbers, if desired, provided that all the shares, or all the shares of a particular class, are fully paid up and rank pari passu for all purposes.

Procedure on Cancellation of Unissued Shares

1. The articles must authorize the cancellation and the power can only be exercised in general meeting (Sect. 61).

2. An ordinary resolution is sufficient unless the articles provide otherwise. Table A requires only an ordinary resolution (Clause 45).

3. Convene the meeting to pass the necessary resolution. A specimen resolution is given on page 331.

4. File notice of the change with the Registrar, and amend copies of memorandum to show the cancellation
as outlined under the heading "Consolidation of Shares."

It may be asked what purpose will be served by a cancellation of unissued shares. At first sight no benefit is derived, and the only result of the cancellation is to reduce the nominal capital. The company may not wish to issue shares of the kind cancelled, because of the conditions attaching to them, and may wish to issue shares of another kind instead. Ordinarily, this would mean that the capital duty paid on the cancelled shares would be lost, and that additional capital duty must be paid on the increased capital represented by the new shares, but if a resolution increasing capital is passed at the same time as a resolution cancelling capital, no capital duty is payable on the amount of the increase, it being considered that such increase is set-off by the cancelled capital on which duty would have already been paid. Thus, a company can in effect alter the nature of unissued shares. Cancellation of unissued shares is not deemed to be a reduction of capital within the meaning of Sect. 66.

Procedure on Reduction of Capital

1. The authority of the articles, a special resolution for reduction, and an order of Court confirming the reduction, are necessary to effect a reduction of capital (Sect. 66 (r) ). Power in the memorandum to reduce capital is not sufficient, as the Act requires the authority of the articles (re Dexeine Patent Packing Co. (1903) ). If it is necessary to add the appropriate provision in the articles, the special resolution for that purpose can, of course, be passed at the same meeting at which the resolution for reduction is submitted, the former resolution being taken first, so that it will not be necessary to hold two meetings.

2. The reduction may take place (Sect. 66 (r) )—
(a) by reducing unpaid liabilities on shares,
(b) by writing off capital which is lost or not represented by available assets,

(c) by paying to shareholders capital which is in excess of the wants of the company,

(d) in any other manner of which the Court approves.

Professional assistance is usually obtained in preparing schemes for reduction of capital. The Court will only confirm a scheme which is "fair to all concerned." If unpaid liability is being reduced, or capital repaid to shareholders, the position of creditors will be affected, as the funds available to meet their claims would be reduced, and in such circumstances creditors would be entitled to object to the scheme. If more was being written off some shares than off others, the shareholders suffering most may object to the scheme. Therefore, before any resolution for reduction is submitted, the terms of the reduction should be communicated to the large creditors and/or shareholders (whichever body is affected, according to the circumstances) to ascertain whether there is a likelihood of any opposition, and if possible, to consider their opinions and suggestions.

3. Convene the meeting to pass the special resolution for reduction. The notice convening the meeting is usually accompanied by a circular outlining the necessity for, results, and effects of the proposed reduction. Specimen resolutions for reduction will be found on page 330.

4. On the passing of the resolution, a petition is presented to the Court for an order confirming the reduction. If unpaid liability is to be reduced or capital repaid (or in any other circumstances if the Court so directs) creditors are entitled to object to the reduction, and the Court orders advertisements for creditors, and settles a list of creditors. The claims of creditors who refuse to consent must be secured or discharged by payment in full (or by payment of such
an amount as the Court determines if the debt is disputed or contingent), but the Court may, if it thinks fit, dispense with the consent of any creditor (Sect. 67 (2) (c)) or all or any class of creditor (Sect. 67 (3)).

5. The Court, if satisfied, makes an order confirming the reduction and may, if it thinks fit, (a) direct that the words "and reduced" be added to the name of the company from such date and for such period as the order shall specify (if such an order is made the secretary must see that the words "and reduced" appear as part of the company's name wherever it is used, i.e. on all letters and documents, accounts, invoices, the seal, share certificates, etc.); (b) direct publication of the reasons for, causes of, and other information concerning the reduction.

6. If an order confirming the reduction is made, there must be filed with the Registrar of Companies (a) the Order of Court and a copy thereof; (b) a minute in the form approved by the Court showing the amount of the reduced share capital, how it is divided into shares, the amount of such shares, and the amount deemed to be paid up on each share at the date of the registration of the minute. The resolution for reduction becomes effective only when the order and minute is so registered, and notice of registration must be published in such a manner as the Court directs. The Registrar issues a certificate of reduction of capital, which is conclusive evidence that all the requirements of the Act have been complied with.

7. When registered, the minute is deemed to be substituted for the capital clause of the memorandum, and in accordance with Sect. 25, every copy of the memorandum subsequently issued must be amended to show the alteration. This can be done by pasting printed slips of the minute in the appropriate place in the memorandum.
8. If the shares are quoted, send notice of the reduction to the Stock Exchange.

9. Close the transfer books for conducting the routine work involved in carrying the reduction into effect. Balance the share register, and prepare a list of members showing the reduction of the individual shareholdings. Circularize the shareholders to surrender their certificates to be endorsed to show the reduction, or, alternatively, new share certificates may be issued.

10. If capital is being returned to shareholders, on surrender of share certificates, issue cheques to shareholders and return amended share certificate. Obtain and file receipts for cheques and certificates. The total amount to be returned to shareholders should be paid to a separate bank account, and all cheques drawn on that account.

11. Make the necessary entries in the share register and financial books.

In order to save capital duty in the event of the company desiring to increase its capital subsequently, it is usual on a reduction of capital, at the same time to pass a resolution increasing the capital by the same amount, and if this is done capital duty is not payable on the amount of the increase. Readers will find in The Times, many notices issued in the course of reductions of capital by companies, and a careful perusal of such notices will be very beneficial, to students particularly.

Procedure on Alteration of Rights Attaching to Shares

If the memorandum or articles authorize alteration of the rights, the rights may be altered in the manner prescribed in the articles. Sect. 72 protects dissentients and provides that where the memorandum or articles authorize alteration of rights by the consent of, or by a resolution of, a specified proportion of the holders of
a class of shares, then dissentient shareholders holding
together not less than 15 per cent of the issued shares of
the class may (if they appeal to the Court within twenty-
one days after the variation was effected) apply to
have the variation cancelled, and if such an application
is made, the variation is not effective unless and until
it is confirmed by the Court. If the Court finds that
the variation would unfairly prejudice the holders of
the class of shares affected, it disallows the variation,
otherwise the variation is confirmed and the decision
of the Court is final. A copy of the Order of Court must
be filed with the Registrar of Companies within fifteen
days after its date, the company and every officer
concerned being liable to a penalty of £5 per day in
default.

The secretarial duties involved will necessarily depend
on the nature of the alteration, and general rules cannot
be laid down. It may be necessary to call in the old
share certificates for exchange; if so, the procedure
outlined on page 229 will, *mutatis mutandis*, apply. If
the alteration affects the provisions of the memorandum,
then in compliance with Sect. 25, every copy of the
memorandum in stock should be amended to show the
change. If the alteration was effected by special or
extraordinary resolution, or by a class resolution, or
by an agreement between all the members of a class,
then a copy of the resolution or agreement must be
filed with the Registrar within fifteen days, and a copy
thereof annexed to every copy of the articles in stock
(Sect. 143).

Reorganizations of Share Capital

Reorganizations of share capital by consolidating
different classes of shares or subdividing shares of one
class into shares of several classes, are now carried out
under Sect. 206 (5); and the procedure involved is
dealt with in Chapter XVI. The new provisions of
Sect. 207 regarding information as to compromises with creditors and members are also discussed in that chapter. It should be noted here that with every notice summoning a meeting of creditors or any class of creditors, or of members or any class of members, shall be sent a statement explaining the effect of a compromise or arrangement and how the interests of directors may be affected, if differing from the interests of other persons.

**Redeemable Preference Shares**

Under Sect. 58 a company may, if so authorized by its articles, issue preference shares which are, or at the option of the company are liable to be, redeemed. If such shares are issued, every balance sheet must show what part of the capital consists of such shares, and state the earliest date on which the company has power to redeem the shares. Only fully paid shares can be redeemed, and such shares can be redeemed only out of profits available for dividend or out of the proceeds of a fresh issue made for the purpose of redemption, but any premium payable on redemption must be provided out of profits or out of the company’s share premium account before the shares are redeemed. If redemption is made out of profits, the available fund is transferred to a reserve fund to be called the “capital redemption reserve fund.” The sum so transferred must be equal to the nominal amount of the shares redeemed (Sect. 58 (1) (d)). The redemption of redeemable preference shares is not to be taken as a reduction of authorized share capital.

Where preference shares have been or are about to be redeemed, the company may issue shares to the same amount without having to pay capital duty on the new issue, but if the new shares are issued before the redemption takes place, for example, to raise capital for the purpose of the redemption, capital duty is payable
unless the redemption takes place within one month thereafter.

Sect. 58 (5) provides that the capital redemption reserve fund may be applied in paying up unissued shares to be issued to members of the company as fully paid bonus shares.

A point which may arise is whether on redemption, arrears of dividend on cumulative preference shares would lapse if at the time of redemption profits sufficient to pay the arrears had not been earned.

Procedure on Redemption of Preference Shares

Subject to the foregoing provisions, redemption of preference shares may be effected on such terms and in such manner as the articles provide, and the following is a general outline of the procedure that would be involved.

1. The directors having fixed the date for redemption, and appropriated profits or raised fresh capital for the purpose, the transfer books of the preference shares will have to be finally closed on the redemption date. It is desirable to close the transfer books a short time before that date to afford time for making the needful arrangements for paying off the shares on the due date. The notice closing the transfer books should state that no transfers will be registered after the specified date, and should publicly call the attention of the shareholders to the fact that redemption is taking place.

2. Prepare a list of preference shareholders showing the amount due to each (including any accrued dividend).

3. Circularize shareholders calling in the share certificates.

4. Cancel the share certificates as they are surrendered, and issue to shareholders cheques for the amount due in respect of capital and dividend. The cheques
may be drawn with an appropriate form of combined endorsement and receipt printed on the back, or alternatively, separate receipts may be used, and the cheques should be accompanied by a certificate stating the necessary details with regard to the tax deducted from the dividend in compliance with Sect. 33 of the Finance Act, 1924. It is advisable to open a special account at the bank and to credit the whole of the redemption moneys and accrued dividend to such account, and to draw the cheques on that account. If the redemption date coincides with a dividend date, it may be thought more desirable, although it is not so economical, to pay the dividend separately.

An alternative method of repaying the shareholders is to furnish each with a form of receipt to be annexed to, or endorsed on, the share certificate, which is then handed to the company's bankers, who will be provided with a list of the shareholders, and authorized to pay the redemption moneys after the expiration of, say, three days for verification purposes.

5. The appropriate entries should be made in the register of preference shareholders and financial books, and the cancelled share certificates, and receipts for the redemption moneys (or endorsed cheques as the case may be) carefully preserved.

6. Within one month after the redemption takes place, file with the Registrar notice of the redemption specifying the shares redeemed, on the official printed form (impressed fee stamp 5s.) (Sect. 62). It is submitted that a redemption of preference shares is an alteration of the memorandum within the meaning of Sect. 25, and consequently all copies of the memorandum in stock should be altered to show the redemption.
CHAPTER XII

DEBENTURES

A debenture may be defined as a document issued by a joint-stock company as evidence of its liability to repay money raised in addition to the shareholders' capital, and if purporting to give a charge, creates the security for repayment of the loan. Sect. 455 of the Companies Act, 1948, defines "debentures" as including "debenture stock, bonds, and any other securities of a company whether constituting a charge on the assets of the company or not."

Debentures which are not secured by a charge on the company's property are called "simple" or "naked" debentures, and the holders stand in the position of ordinary unsecured creditors except that the debentures may provide for the payment of interest, whereas ordinary unsecured creditors are not entitled to interest on their debts save in exceptional circumstances. Debentures which are secured by a charge on the company's property are usually styled "mortgage" debentures.

Debentures, whether secured or unsecured, may be issued in the form of (a) bonds of certain fixed amounts —£50–£100; (b) stock certificates being issued for the amount of stock to which each holder is entitled. Either bonds or stock may be issued (a) as registered securities, i.e. payable only to the registered holders and transferable only by instrument of transfer, or (b) in the form of bearer securities. Bearer debentures are fully negotiable by mercantile custom (Bechuana-land Exploration Co. v. London Trading Bank (1898); Edelstein v. Schuler (1902)).

The security for debentures may be by either fixed or floating charge, or by both. A fixed charge means
that the company encumbers its legal title to specific assets—land and buildings, etc.—by a charge in favour of the debenture-holders, or their trustees, with the effect that the company cannot deal with those assets other than by creating charges ranking after the first charge, or possibly by selling subject to the charge if the conditions of the debentures so permit. A floating charge means that the whole or a certain specified portion of the assets is charged to secure the debentures, but with the provision that the company may deal with such assets in the ordinary course of business, i.e. selling and mortgaging, etc. A fixed charge ranks before a floating charge on the same property. Usually land and buildings are made the subject of a fixed charge and other assets such as plant, securities, fixtures, motors, ships, etc., are the subject of a floating charge. Floating charges are not always very desirable securities because of the fact that the company may sell or mortgage the assets, but they are common because a floating charge is the only satisfactory method of charging assets other than land and buildings.

The charge may be created by the debentures themselves, but almost invariably the charge is created by a trust deed for the benefit of the debenture-holders. Banks, trust, and insurance companies are often appointed trustees. The prime advantage of a trust deed is that the trustees watch the interests of the debenture-holders far better than a large number of disconnected holders could do, and in the event of default on the part of the company, the trustees can immediately take steps to protect the interests of the debenture-holders—if there was no trust deed the initiative would have to be left to one or more debenture-holders. Careful perusal of the specimen debentures shown in the following pages will be well repaid in amplifying the foregoing points.
Specimen Certificate of Registered Debenture Stock

No. ........ £ ...........

Debenture Stock Certificate

EXEMPLARY COMPANY, LIMITED
Incorporated under the Companies Act, 1948.

Nominal Capital: £ .......... divided into .......... shares of £ ........ each, the whole of which are issued and fully paid up.

Issue of £ ........ 5% Mortgage Debenture Stock
made under the authority of the Company's Memorandum and Articles of Association, and pursuant to a resolution of the directors of the company, dated .......... .......................... 19......
Interest Payable half-yearly on ......................... and .......... 19......

This is to certify that .......... .......................... of .......... .......................... is the registered holder of .......................... pounds of the above stock subject to and with the benefit of the provisions contained in a Trust Deed dated the .......................... 19......, and made between the Company of the one part and .......................... as Trustees of the other part, and subject also to the conditions endorsed hereon.

Given under the Seal of the Company this .......... .......................... day of .......................... .... , 19......

(Seal of the Company) .......... .......................... Directors.

.......................... Secretary.

Note. This certificate must be surrendered before any transfer of the whole or part of the stock comprised therein can be registered.

A debenture stock certificate to bearer would follow the above form except that the certificate would read "This is to certify that the bearer is the proprietor of .......... pounds of the above stock subject to, etc., .........." and the interest coupons and a talon would be annexed.