Where there is a trust deed, Clause 2 would state that the debenture-holders were entitled to the benefit of the trust deed, giving its date and the names of the parties. If the debenture was to be to bearer, Clause 1 would state that the company would on the specified date “pay to the bearer of this debenture the sum of £100....” and as regards payment of interest, would refer to the interest coupons annexed to the debenture.

It will be observed from the foregoing specimen debentures that each consists of two parts: (1) the instrument containing the acknowledgment of the company’s liability to pay principal and interest, and particulars of the security (if any) given, and (2) the conditions endorsed on or subject to which the debentures are issued. These conditions are very important, and the secretary of a company which has issued debentures must be well acquainted with the conditions affecting those debentures, as the following brief outline of the usual contents of well-drawn conditions will show—

1. Terms and methods of repayment (this is dealt with more fully later on in this chapter).

2. That all holders of the same class of debentures shall rank pari passu. But for this condition, debentures would rank according to their serial numbers, or according to date, where they were not all dated the same.

3. How and when the interest will be payable. In the case of registered debentures, interest is usually payable half-yearly on specified dates, by means of interest warrants, in the same manner as dividends on shares. Interest on bearer debentures is paid by means of interest coupons annexed to the debentures. These matters are dealt with in Chapter X.

4. The events on the happening of which the principal is to be repayable, for example—winding up of the
company, default in payment of principal and interest, etc.

5. That every debenture or certificate of debenture stock shall bear a denoting number.

6. In the case of registered debentures, provisions as to the register of debenture-holders (including where it is kept, if not at the registered office), and what such register shall show, how and when it may be closed from inspection, etc.

7. The method of transferring the debentures. This is dealt with in detail later on in this chapter.

8. That the company will not recognize any trust affecting the debentures, nor be bound by notice thereof, nor will enter any trust on the register in the case of registered securities. In the case of bearer securities, that the bearer shall be the only person recognized to receive payment of principal and interest. These provisions prevent the company being placed in the position of a trustee of the interests of any person other than the registered holder or the bearer.

9. That holders shall be entitled to the debentures free from any equity, set-off, or cross claim by the company against the original or any intermediate holder. This is usually inserted to make the debentures more desirable marketable securities, for obvious reasons.

10. That the executors or administrators of a deceased sole holder, or the survivor(s) of joint holders, shall be the only persons recognized by the company as having any title or interest in the debentures. This prevents the company being approached by parties beneficially interested in the debentures.

11. That persons becoming entitled in consequence of death or bankruptcy must register as holders or make a transfer, otherwise the company may withhold payment of interest.

12. Provisions concerning joint holders—that the company may deal with any one of several joint holders,
and that his receipt for the debenture, interest, or principal shall bind the others.

13. Conditions on which a new debenture or certificate shall be issued in place of one worn-out, defaced, lost, etc. Stock Exchange rules provide that the cost of issuing a duplicate certificate shall not exceed 10s., but power is usually taken to compel the applicant to pay the cost of investigating his title, statutory declarations as to loss, etc.

14. Regulations as to meetings of debenture-holders—provisions concerning notices of meetings, etc.

15. That where there is a trust deed, no debenture-holder shall take any proceedings against the company other than through the trustees.

**Liability of Trustees for Debenture-holders**

Sect. 88 introduces new and stringent provisions regarding the liability of trustees for debenture-holders. Any provision in a trust deed for securing an issue of debentures, or in any contract with the holders so secured, is void in so far as it has the effect of exempting a trustee from or indemnifying him against liability for breach of trust where he fails to show the degree of care and diligence required of him as trustee.

The same section, however, operates to protect the trustee. The following *inter alia* shall not be invalidated: (a) any release otherwise validly given in respect of anything done or omitted to be done by a trustee before the giving of the release; or (b) any provision enabling such a release to be given (i) on the agreement thereto of a majority of not less than three-fourths in value of the debenture holders present and voting in person or, where proxies are permitted, by proxy at a meeting summoned for the purpose; and (ii) either with respect to specific acts or omissions or on the trustee dying or ceasing to act.
DEBENTURES

Issue of Debentures

The legal requirements as to prospectuses, allotments, certificates, etc., applicable to shares also apply to debentures, and the procedure on a public issue of debentures follows much the same lines as a public issue of shares, which is dealt with in Chapter VI. (It should, however, be observed that in the case of an allotment of debentures, no return of allotments under Sect. 52 is required as in the case of shares.) The following is a brief summary of the procedure with necessary amendments peculiar to an issue of debentures—

1. It will be necessary to draft and print forms of application and allotment sheets, allotment letters, and letters of regret (and ruling of register of debenture-holders in case of an issue of registered debentures; a specimen ruling is given on page 274).

2. The application and allotment sheets will be written up, checked, and balanced, the allotments made, and the allotment letters and letters of regret (if any) issued, but before any allotment letters are issued it must be observed that the statement of loan capital is filed with the Commissioners of Inland Revenue (see heading “Stamp Duties” in this chapter). The drafting of the debentures and trust deed (if any) and the stamping of these documents will be attended to by the company’s solicitors and trustees’ solicitors (if any).

3. Accounts will have to be kept of the allottees, and the instalments due and paid, and in due course the definitive debenture bonds and stock certificates, as the case may be, will have to be issued. The procedure on issue of share certificates will, mutatis mutandis, apply (see Chapter VI). A common practice is to issue scrip certificates in exchange for allotment letters. These scrip certificates state when the instalments are due, and have bankers’ receipt forms annexed. Many scrip certificates also have annexed a coupon for the
first payment of interest, and if this procedure is followed, it will be necessary to calculate the accrued interest on the instalments from the due dates thereof, and insert the amounts in the coupons, or the coupons can be drawn without definitely mentioning the amount of interest, and on the interest date the bankers will be furnished with a list of coupons payable, and the amount of interest due in respect of each. In either case it will be necessary to make arrangements with the bankers for payment of the interest, and to take steps to ensure that coupons are cashed only where the instalments have been paid punctually and in full. The payment of interest coupons is dealt with in Chapter X.

These scrip certificates are often issued as bearer instruments, and when all the instalments are paid the scrip certificate is surrendered for the debenture bond or stock certificate. The method of issuing scrip certificates to bearer has much to recommend it, as the secretarial department is saved the considerable trouble involved in dealing with transfers pending payment in full of the instalments.

Interest coupons annexed to scrip certificates attract a 2d. stamp duty, as a cheque. A specimen debenture scrip certificate is given at the end of this chapter.

4. In the case of registered debentures, the register of debenture-holders will have to be written up. This will be kept and indexed on the same lines as the share register (see Chapter VI). A specimen ruling is given on page 274.

5. Within twenty-one days after the creation of the charge securing the issue of the debentures, the company must duly register the necessary particulars with the Registrar of Companies. Registration formalities are usually attended to by the company's legal advisers. The subject of registration of charges is dealt with under
the next heading. A copy of the Registrar's certificate of registration must be endorsed on every debenture or certificate of debenture stock which is issued.

6. A copy of the trust deed (if any) and one copy of each series of debentures must be kept at the registered office (Sects. 103 and 104).

7. Details of the charge must be entered in the company’s register of mortgages and charges (Sect. 104).

8. In the case of registered debentures, arrangements for dealing with transfers should receive attention.

Registration and Filing of Charges Securing Debentures

Sect. 95 provides that any charge for securing an issue of debentures must be registered within twenty-one days after the creation of the charge, otherwise the security is void against the liquidator and any creditor, but without prejudice to any obligation for repayment of the amount secured, and in default of registration of the charge, the money thereby secured becomes immediately payable. Registration is the duty of the company (although any interested person may apply for registration), and Sect. 96 (3) imposes a fine of £50 per day on the company and every officer who is in default in registration.

In the case of an issue of debentures there must be lodged with the Registrar the following documents (Sect. 95 (8) and (9))—

1. The prescribed form (duly stamped with a 5s. fee stamp) showing—

(a) Total amount secured by whole series of debentures.

(b) Amount of present issue of series.

(c) Dates of resolutions authorizing the issue.

(d) Date of trust deed—if none, date of execution of debentures.

(e) General description of property charged.
(f) Names of trustees (if any) for the debenture-holders.

(g) Amount or rate per cent of any commission, discounts, or allowances, for underwriting the issue of debentures.

2. The trust deed (if any). If no trust deed, one of the debentures of the series.

If more than one issue is made of debentures in the series, the Registrar must be notified of particulars of the date and the amount of each issue.

The prescribed registration fees must also be paid.

The Registrar issues a certificate of registration which is conclusive evidence that the requirements of the Act have been complying with, and a copy of this certificate of registration must be endorsed on every debenture or certificate of debenture stock issued, payment of which is secured by the charge so registered, under penalty of £100 on any person knowingly or wilfully a party to default.

If the omission to register a charge within twenty-one days is proved to be due to inadvertence or accidental, the Court may extend the time for registration (Sect. 101).

Transfer of Debentures

Bearer debentures, whether issued in the form of bonds or stock certificates, are, of course, negotiable instruments, and are transferable by delivery.

As regards registered bonds, or registered stock certificates, these are choses in action, and would ordinarily be transferable by any assignment in writing which complies with the requirements of Sect. 136 of the Law of Property Act, 1925, concerning assignments. The signature of the transferee would not be necessary, the transferee could retain possession of the assignment or transfer, and could not be compelled to hand it over to the company, a fee for registration of the transferee could not be demanded by the company, as
it would be bound by notice of assignment under the 
Law of Property Act, etc. To obviate the inconveni- 
ences which such a state of affairs would surely entail 
in the registration of transfers of registered debentures, 
the conditions of issue of the debentures invariably 
prescribe the mode of, and other requirements concern- 
ing transfers, the following being typical conditions—

(a) Every holder of stock shall be entitled to transfer 
the same or any part thereof not involving a fraction 
of £1 (or in the case of an issue of bonds, that every 
holder shall be entitled to transfer his bond) by an 
instrument in writing in the usual common form.

(b) Every such instrument of transfer to be signed 
by both transferor and transferee, and the transferor 
shall be deemed to remain owner of the bond or stock 
transferred until the name of the transferee is entered 
in the register of debenture-holders. (It should be 
observed, however, that by virtue of Sects. 78 and 80 
of the Companies Act, 1948, the company must either 
refuse to register the transfer, or must issue a certifi- 
cate of stock (or endorse a debenture bond to show the 
interest of the transferee) within two months after pre- 
sentation of the transfer for registration, unless the con- 
ditions of issue of the debentures provide otherwise.)

(c) That every transfer must be left at the registered 
office of the company for registration, accompanied by 
the stock certificate or bond, and such other evidence 
as the company may require to prove the title of the 
transferor.

(d) That all instruments of transfer which shall be 
registered shall be retained by the company.

(e) That a fee of 2s. 6d. will be charged for the regis- 
tration of each transfer, and if required must be paid 
before registration of the transfer.

(f) That no transfer will be registered during the 
fourteen days immediately preceding the days fixed 
for payment of the interest on the bonds or stock.
Other conditions of interest in connection with transfers such as the question of notices of trusts, procedure on transmission, joint holders, whether or not subject to the equities, are also usually included, and are dealt with previously in this chapter.

The procedure on transfer of debentures follows exactly similar lines to transfer of shares, and similar care and precautions should be taken when dealing with transfers of debentures (see Chapter VIII), and the provisions of the Companies Act, 1948, concerning issue of certificates and registration of transfers (Sects. 78 and 80) apply to debentures as well as shares; but an important point to note in connection with registration of transfers of debentures, is that usually a debenture bond can only be transferred in its entirety—it cannot be split or divided between different holders—whereas debenture stock can be transferred in fractional amounts (although there is usually a restriction on transfers of fractions less than a certain minimum, £1, or £5). The reason for this distinction is that the stamp duty on debenture bonds is usually impressed on the bonds themselves, whereas in the case of an issue of debenture stock, the stamp duty thereon is usually impressed on the trust deed. Consequently, on a transfer of a debenture bond, the bond is endorsed to show the name, etc., of the transferee, whereas on a transfer of debenture stock, the old certificate would be cancelled and a new certificate made out for the transferee, or if only a part of the stock comprised in one certificate was sold, the transfer of that part would be "certified" against the stock certificate in the same way as transfers of part of a shareholding are certified (see Chapter VIII) and, in due course, a certificate would be made out for the transferee in respect of his part of the stock, and a new certificate for the transferor for the unsold balance of his holding. Obviously, in the case of stamped bonds,
if these were cancelled when a transfer took place, the new bonds would have to be stamped, and this would be wasteful, whereas there is no duty on stock certificates because the duty is impressed on the trust deed.

Winding up does not operate to suspend registration of transfers of debentures, as it does transfers of shares, because debenture-holders are not members of the company; they are creditors.

Transmitton of Debentures

The legal personal representatives of deceased, bankrupt, or lunatic debenture-holders are, of course, entitled to deal with the debenture holdings of the person they represent, and, generally speaking, the company will require the same evidence of title, and would follow the same procedure in dealing with the representatives, as in the case of a transmission of shares (see Chapter VIII), but the conditions of issue of the debentures may prescribe certain regulations as to transmission of debentures, as for example, the specimen conditions on page 249.

In Edwards v. Ransomes & Rapier (1930), it was held that where the executor was entitled to certain registered debentures as part of his share as beneficiary of the estate, he was entitled to be registered as owner without further transfer; the company had already registered him in his representative capacity, and a further transfer would be unnecessary.

Payment of Interest on Debentures

The procedure on payment of interest on registered debentures will follow the same lines as that for payment of dividends on registered shares, which is dealt with in Chapter X. Interest on bearer debentures is paid by means of coupons annexed to the debentures, and this matter is also treated in the same chapter.
Redemption of Debentures

The conditions of issue and/or the trust deed (if any) will state the terms and methods of redemption. Debentures may be redeemable in various ways, for example—

(a) Only on a fixed future date.
(b) On the company giving a stipulated length of notice of redemption.
(c) By annual drawings.
(d) By the company purchasing them in the open market at or under a fixed maximum price. In this case where a company purchases its own debentures they are cancelled, the register of debentures is amended accordingly, and the necessary entries made in the financial books.
(e) On the demand of debenture-holders—such a provision is rather uncommon.

Sect. 89 authorizes the issue of perpetual or irredeemable debentures, but such issues are not common.

The usual arrangement for redemption of debentures is that the company undertakes to redeem them either on a fixed date, or by annual drawings of a certain amount, but reserving to the company the right to redeem the whole or part on giving a stipulated length of notice, and/or the right to purchase its debentures in the open market. In some cases, where the debentures have depreciated in value, or have no quotation, the company has invited debenture-holders to tender for redemption of their debentures before the fixed redemption date, i.e. to state the lowest price at which they would be willing to sell their debentures to the company or to its nominees.

Where the redemption of all the debentures is to take place on a fixed date, the conditions of the debentures usually make provision as to how the company must raise the redemption moneys, e.g. by annual appropriations of fixed amounts to be invested in approved
securities, or in an insurance policy, etc. Where redemption is to take place by annual drawings, the debentures or trust deed set out minutely the method of conducting the drawings. Slips of paper bearing the numbers of the outstanding bonds are placed in a box (or in the case of stock, the holdings are sorted into batches of a stipulated value, say £1,000, each batch being allotted a number, the numbers being written on slips of paper and placed in the box) and slips are then drawn from the box according to the number of bonds or amount of stock to be redeemed, in accordance with the conditions of the debentures. The drawing is usually conducted by a notary public in the presence of the secretary and/or one of the debenture-holders, the notary issuing a certificate of the number of bonds drawn or amount and names of the holders of stock drawn for redemption.

Whether the debentures are repaid on maturity, or after due notice of redemption by the company, or by annual drawings, the secretarial routine is much the same in each case. Notice of redemption will be given to those holders whose debentures are to be redeemed. Registered holders will be circularized. Holders of bearer debentures will be informed by Press advertisements. Where the company is redeeming in pursuance of an option to redeem on giving a stipulated length of notice, the notice of redemption must be given the requisite length of time before the date proposed for redemption. The following is a specimen notice to

EXEMPLARY COMPANY, LIMITED

To Holders of the 5% Mortgage Debentures of this Company

Notice is hereby given that pursuant to Clause 10 of the Trust Deed securing the above debentures, dated the .......... day of ................. 19...., and made between the company of the one part and the Trustworthy Trust Company, Ltd., as trustees for the debenture-holders of the other part, the company proposes on the 1st day of June, 19...., to redeem at
105 per cent the whole of the outstanding 5 per cent Mortgage Debentures secured by the said Trust Deed, together with the half-year's interest accrued due on that date.

The principal moneys secured by such debentures, and the current half-year's interest will be paid at the West Bank Ltd., 41 Oldbury, London, E.C.3, on surrender of the debentures with all unpaid coupons annexed thereto, and the same must be left at the bank three clear days for verification. Payment will be made by cheque provided debenture-holders complete and sign and return to the bank a form of request for that purpose, which can be obtained at the bank on and after the 25th May, 19....

In case the said debentures are not presented for redemption on the 1st June, 19...., all interest on the said bonds will cease from and after that date.

Dated this 28th day of February, 19....

By Order of the Board.

99 Lune St., E.C.1

G. SMART, Secretary.

holders of bearer debentures, and the circular to registered holders will follow the same lines, but in addition, it should state that no transfers will be accepted for registration after the proposed redemption date, although it is more convenient, if possible, to close the transfer books about a fortnight before that date.

A list of debenture-holders (or numbers of bearer bonds or stock certificates) showing the amount due to each on redemption will be drawn up. The accrued interest must also be calculated and shown in the list, and the necessary statements of tax deducted prepared in compliance with Sect. 33 of the Finance Act, 1924. The redemption dates often coincide with a half-yearly interest date, and this minimizes to some extent the labour of calculating the accrued interest. In the case of registered debentures the register of debenture-holders must be balanced.

The amount to be distributed by the company in respect of principal and accrued interest is usually credited to a special account at the bank to prevent overburdening the general account.

The organization for paying out debenture-holders must receive attention. In the case of bearer debentures,
the usual practice (as will be seen from the above specimen notice) is for the company's bankers to handle the repayment. The bankers will be provided with a list of the numbers of the debentures outstanding, and the amount of principal and interest payable in respect of each, together with the appropriate certificates of tax deducted from the interest. When the holders deposit their debentures with the bankers, they will be required to state their name, address, etc., number and value of the debentures on a form provided by the bank, a copy of which, duly receipted by the bank, will be handed to the depositor, who, on presenting it at the bank after the expiration of the time stipulated for verification, will be paid the principal and interest to which he is entitled on his signing a receipt therefor endorsed on the debenture. Subsequently, the redeemed debentures will be handed to the company. The following is a specimen form of receipt—

Received from the Exemplary Co., Ltd., the principal sum of £....... secured by the within written security together with all interest accrued due in respect thereof.

Dated this day of 19....

WITNESS ...
Signature .........
Address ..... ...... ...
Description

A rubber stamp could be used for the purpose of endorsing this form of receipt. No stamp duty is payable on the receipt as the Stamp Act exempts receipts for principal and interest written on a duly stamped document securing the same.

In the case of registered debentures, holders can be circularized to surrender their bonds or certificates, and these will be endorsed with a form of receipt and returned to the holders with an undertaking to pay the amount due on redemption on presentation of the debenture duly receipted, and for the convenience of those holders desiring payment to be made by post,
or to be made to their nominees, forms of request to
send a cheque by post, or to pay the redemption moneys
to a named nominee can be provided. Alternatively,
the actual payment of the redemption moneys can be left
in the hands of the company's bankers as in the case of
bearer debentures. Sometimes, the trustees for the de-
benture-holders handle the redemption of the debentures.

As the bonds or certificates are redeemed, the list is
marked off accordingly. If there is a trust deed, this
must be discharged, a matter usually attended to by
the company's solicitors, and in due course a memo-
randum of satisfaction should—but need not neces-
sarily—be filed at the Companies Registry. This
must be on the official form (fee stamp 5s.) which re-
quires sealing in accordance with the articles, and
supported by a statutory declaration by a director and
the secretary. (This declaration is printed on the fly-
leaf of the official form.) It should also be seen that
the necessary entries are made in the company's
register of mortgages and charges, and in the financial
books (and in the register of debenture-holders in the
case of redemption of registered debentures).

Where, on a redemption of part of a debenture stock
issue by means of annual drawings, it happens that
part only of a holding represented by one stock certifi-
cate is drawn for redemption, it is not sufficient, where
the debentures have an official quotation, to endorse
the stock certificate to show that it has been partly
redeemed, as the Stock Exchange rules require that
the old certificate be cancelled and a new one issued
for the unredeemed balance.

Re-issue of Debentures and Issue of Debentures
in Substitution for Others

Sect. 90 of the Companies Act, 1948, provides, in effect—

(a) That where a company has redeemed any debentures it
shall have power to re-issue them either by re-issuing the same
debentures or by issuing other debentures in their place, unless
a provision to the contrary is contained in the articles, or in
any contract entered into by the company, or unless the com-
pany has by resolution or other act manifested its intention
to cancel the debentures;

(b) That on a re-issue of redeemed debentures, the person
entitled thereto shall be deemed to have the same priorities
as if the debentures had never been redeemed;

(c) That where debentures are deposited to secure a fluctu-
ating overdraft on current account or otherwise, the fact that
the account may cease to be in debit does not, ipso facto,
redeem the debentures.

Further, in accordance with the Eighth Schedule,
particulars of redeemed debentures which the company
has power to re-issue shall be included in every balance
sheet.

A company may for some purpose, or in pursuance
of some scheme or arrangement, wish to substitute
existing debentures by an issue subject to different
conditions and terms, or to substitute registered for
bearer debentures, and vice versa.

The secretarial routine will, of course, depend on the
circumstances. If redeemed debentures are being re-
issued, the re-issue is in fact the equivalent of a new
issue, except that the old debenture bonds (or new
stock certificates in the case of stock) would be issued
to the new applicants and the procedure would be the
same as on an original issue of debentures. If at or
before the date of maturity of the debentures, the
company finds that it would be convenient not to repay
the debentures, but to invite the debenture-holders to
accept a renewal of the debentures for a further term,
or to issue other debentures in their place, the trustees
(if any) for the debenture-holders would be consulted,
and the debenture-holders communicated with and
asked to state if they would be willing for their deben-
tures to be renewed or replaced. If the response was
considered adequate, those debenture-holders agreeable
to the company’s proposals would be requested to sign
a contract undertaking to accept the company’s terms
—the form of such contract would be settled by the company's solicitors and trustee's solicitors.

A list of debentures outstanding would be prepared, and a note made thereon against the name of each debenture-holder who accepts the company's terms. The others would have to be paid out at maturity. (The procedure for redemption is dealt with previously in this chapter.)

Where there is a trust deed, a supplemental trust deed will be prepared outlining the terms of the arrangement for re-issue, or if a new series of debentures is to be issued, a new trust deed will probably be entered into.

The debenture bonds or certificates of debenture stock will be called in, and if the debentures are to be re-issued, the bonds or certificates will be endorsed to record the fact, unless it be thought more desirable to issue new forms of bond or certificate, or where the debentures are to be replaced by another issue, the new documents will be prepared. These will in due course be handed to the holders entitled thereto in exchange for a lodgment receipt which would be issued to them on their depositing their debentures with the company, the lodgment receipts containing an undertaking by the company to hand over the bonds or certificates within a stipulated time.

Other matters requiring attention are—

(a) The re-issue, or issue of the substituting securities, as the case may be, must be properly authorized either at a general meeting, or at a meeting of the directors, whichever is required by the articles, and the allotment of the debentures should be properly made at a valid board meeting.

(b) The necessary stamp duties must be paid.

(c) The requirements of Sect. 95 as to registration of charges, and endorsement on the debentures of a copy of the certificate of registration, must be complied with.
(d) The entry in the company's register of mortgages and charges must be amended.

(e) In the case of registered debentures, the register of debenture-holders will have to be written up and amended to show the re-issue of debentures, or the issue of new ones in their place.

(f) The appropriate entries must be made in the books of account.

(g) A copy of any new or supplemental trust deed and a copy of the new or re-issued debentures must be kept at the registered office in compliance with Sects. 103 and 104.

(h) A memorandum of satisfaction should be filed with the Registrar as regards debentures repaid.

(i) It will be necessary to see that accrued interest on any debentures to be replaced is duly accounted for.

Conversion of Registered to Bearer Debentures, and Vice Versa

Holders of registered debentures are sometimes accorded the right to convert their debentures into bearer debentures, and vice versa. In such cases, the practice is to require the debenture-holder to lodge his debenture with a signed form of request for conversion, at the registered office, in exchange for which he is given a lodgment receipt containing an undertaking to issue the new document in due course. The new document will be prepared, and brought before the board to confirm the conversion and authorize the sealing and signing and issue of the new document, and thereupon the surrendered debenture is cancelled and filed. The new document may require stamping; if so, this should be attended to. A register of conversions is kept, and details of the conversion entered therein. The new document is issued to the person entitled thereto on his surrendering the lodgment receipt, paying the prescribed fees and stamp duties (if any) and
signing a receipt for the new document. The necessary alterations must then be made in the register of debenture-holders, register of bearer debentures, and books of account.

It should be remarked, however, that in consequence of the passing of the Exchange Control Act, 1947, conversion of registered to bearer debentures would hardly arise at the present time, because the issue of bearer securities can only be made with the approval of the Treasury, which permission is not given.

**Issue of Shares in Exchange for Debentures**

Sometimes debentures are issued giving the holders the right on request at any time, or at stated times, or at maturity, to have their debentures converted into shares according to some pre-arranged scale of exchange, but the operation must not result in an illegal issue of shares at a discount (*Moseley v. Koffyfontein Mines* (1904)). Debentures issued on such terms are usually styled "convertible debentures." Before maturity, conversions may only take place gradually, on the initiative of the debenture-holders. At maturity the debenture-holders may be communicated with and asked to state whether they will take cash or shares on redemption, a record being kept of the replies received. The procedure will be the same in both cases, save that conversions on maturity may take place on a large scale.

Each debenture-holder will be required to lodge his debenture together with a signed form of request for conversion into shares, at the registered office, and he will be given a lodgment receipt undertaking to issue a share certificate in due course. The necessary new share certificate will be prepared, and will be brought before the board, which will pass a resolution allotting the shares in exchange for the debenture and authorizing the sealing, signing, and issue of the share certificate, whereupon the debenture will be cancelled. A register
of conversions will be kept, and the necessary details entered therein, and the share certificate issued to the person entitled thereto on his surrendering the lodgment receipt, paying the prescribed fees and giving a receipt for the share certificate. (See Chapter VI as to precautions necessary on issuing share certificates.) In addition it will be necessary—

(a) To take into account any interest accrued on the debentures at the date of conversion. It is convenient to arrange matters so that conversion takes place on an interest date.

(b) To make a return of allotments in compliance with Sect. 52. Where conversion takes place before maturity of the debentures, it will also be necessary to file a contract in writing constituting the title of the allottee or to file the prescribed form of particulars (No. 52). Where the conversion of debentures to shares takes place on maturity, it is submitted that this will not be necessary, because at maturity the debenture-holders have the option of taking cash or shares, and if they elect to take shares, they in effect pay for them in cash.

(c) To make the necessary entries in the register of members and index thereto.

(d) In the case of registered debentures, to amend the register of debenture-holders to show that the debentures were converted into shares, or in the case of bearer debentures, to note in the register of bearer debentures those debentures which have been converted.

(e) To amend the company's register of mortgages and charges to show to what extent the charge securing the debentures has been discharged by the conversions to shares.

(f) To make the appropriate entries in the books of account.

(g) To issue the share certificates in respect of the converted debentures within two months from the date of conversion in compliance with Sect. 80.
Further, a memorandum of satisfaction should be registered at the Companies Registry, and where the whole of the debentures have been converted or redeemed, it is necessary to have the trust deed (if any) discharged, or where only part of the debentures are converted before maturity thereof, the trust deed should be endorsed accordingly. Moreover, if the company's capital is all issued, it will be necessary to increase the nominal capital, in order to make it possible to issue shares in place of the debentures.

**Income Debentures**

The interest on debentures is payable whether the company earns profit or not, and thus in the case of a not too prosperous company, the annual charge for debenture interest is a heavy burden, which if not met will accumulate and financially embarrass the company, whereas if the capital represented by the debentures was in the form of shares, the company would not pay any dividends, and could perhaps manage to survive lean periods without accumulating burdens to be met when better times came. To meet such circumstances, the expedient has been adopted of issuing debentures, the interest on which is payable only if sufficient profits are earned, the debenture-holders losing their right to interest if profit to pay it is not earned each year, but they stand in a better position than shareholders in that the debentures are secured by a charge on the company's property or part thereof. If issued in the form of bonds, such debentures are known as income bonds; if in the form of stock, as income debenture stock. They occupy, as it were, a half-way position between debentures and shares, and are often issued to creditors where reconstruction takes place. Apart from the fact that interest is payable only if profits are made, they are in all respects similar to, and should be dealt with as, ordinary debentures.
Register of Debenture-Holders

It is to be noted that Sect. 86 gives new provisions relating to the keeping of a register of debenture-holders, as follows: (a) The register of a company registered in England shall not be kept in Scotland, and vice versa. (b) The register may be kept at the place where it is made up, i.e. not at the registered office, but in this case the Registrar must receive notice and the fact be included in the Annual Return. This is so that it may be inspected by registered debenture-holders and members of the company, which inspection is to be without charge. Other persons may inspect on payment of a fee of 1s. or less, and all may have a copy on payment of 6d. per 100 words (Sect. 87).

Stamp Duties Affecting Debentures (including Bonds, Mortgages and other Securities)

1. Registered and Transferable only by Instrument of Transfer—

Where the amount secured does not exceed £10

\[
\begin{array}{ll}
\text{Exceeds £10 and does not exceed £25} & s. d. \\
\text{£25} & 1 4 \\
\text{£50} & 2 6 \\
\text{£100} & 5 \\
\text{£150} & 7 6 \\
\text{£200} & 10 \\
\text{£250} & 12 6 \\
\text{£300} & 15 \\
\end{array}
\]

If given in substitution for a duly stamped security, whether registered or to bearer, for every £100, or part

\[
\begin{array}{ll}
\text{of £100 of such amount} & s. d. \\
\end{array}
\]

(Maximum duty 10s.)

2. Transferable by Delivery (Bearer Securities)—

(a) Repayable within not more than one year, for every £10, or part, of amount secured

\[
\begin{array}{ll}
\text{£10, or part, of amount secured} & s. d. \\
\end{array}
\]

(b) Repayable within not more than three years, for every £10, or part, of amount secured

\[
\begin{array}{ll}
\text{£10, or part, of amount secured} & s. d. \\
\end{array}
\]
(c) Repayable at a time exceeding three years, for every £10, or part, of amount secured . . . . 8 -

(d) If given in substitution for one duly stamped under
   (c), for every £20, or part . . . . . . 4 -

A bearer security given in substitution for a registered security requires the full duty of eight shillings for every £10, or part.

The term "amount secured" includes in certain circumstances any bonus or premium covenanted to be paid when the bonds or debentures are redeemed. For instance, a bond of £100 which secures the payment of the £100 with a premium of £5 must be stamped for £105, unless such premium is payable only in consequence of some voluntary act of the company.

Where debentures are re-issued under the provisions of Section 90 of the Companies Act, 1948, either by the re-issue of the same debentures or by the issue of other debentures in their place, such re-issued debentures fall to be treated as new debentures for the purposes of stamp duty, and the full ad valorem duty is payable thereon. Similarly, if debenture stock is re-issued, further duty is payable.

3. Transfer of Debentures—same as on transfer of shares. (See page 133.)

4. Debenture Scrip Certificates—A receipt for an instalment written on a scrip certificate does not require a receipt stamp (London & Westminster Bank v. Commissioners of Inland Revenue (1900)), but an interest coupon annexed to a scrip certificate requires a 2d. stamp duty as a cheque.

5. Receipt "Endorsed" on any duly stamped debenture, acknowledging receipt of principal thereby secured, is exempt from stamp duty (Stamp Act, 1891), but if the receipt is so drawn as to constitute a release or surrender of the charge securing the debentures, the duty is 1s. per £100 with a maximum of 10s.

6. Trust Deeds. On an issue of debenture stock, the stamp duty on the debenture stock is always
impressed on the trust deed, because on transfer of the stock, new stock certificates are issued, whereas in the case of debenture bonds, the duty is often (but not always) impressed on the bonds themselves, and on a transfer of the bond, it is merely endorsed to show the name of the transferee. Where the stamp duty on the debentures is impressed on the debenture or bond itself, the trust deed is stamped with a nominal duty of 10s.

7. Loan Capital Duty. By the Finance Act, 1947, any company proposing to issue any loan capital, must before the issue thereof deliver to the Commissioners of Inland Revenue a statement of the amount proposed to be secured, stamped with duty at the rate of 5s. per cent, but any duty paid on the trust deed or other document (such as a debenture bond) securing the loan capital may be deducted. The term "loan capital" includes any money raised by means of debentures, but does not include any bank overdraft or other loan raised for a merely temporary purpose not exceeding twelve months.

Under Sect. 10 of the Finance Act, 1907, a rebate of 4s. per £100 is allowed, if it is shown that the loan capital is to be used for consolidation or conversion of an existing loan.

The term "amount secured" used in connection with the above stamp duties, includes any bonus or premium on redemption, except where the debentures are redeemable at par with an option for the company to redeem at an earlier date at a premium (Knight's Deep, Ltd. v. Commissioners of Inland Revenue (1900)). For example, a registered debenture for £100 redeemable at £105 on a fixed future date, must be stamped 7s. 6d., but if it was redeemable at £100 only, with an option for the company to redeem at an earlier date on paying a premium of 5 per cent, then the stamp duty would be only 5s. In other words the term "amount
secured” means the amount which the company is definitely obliged to pay in order to redeem.

**Specimen Debenture Scrip Certificate to Bearer**

**Debenture Scrip Certificate to Bearer**

No.......................... £................... ....

**Exemplary Company, Ltd.**

Incorporated under the Companies Act, 1948.


---

**Nominal Share Capital**: £250,000 divided into shares of £1 each, issued and fully paid.

---

**Issue of £** 5% Mortgage Debenture Stock made under the authority of the Memorandum and Articles of Association of the Company and pursuant to a Resolution of the Company, dated the ................. day of .................. 19...., and constituted and secured by, and issued subject to and with the benefit of, a Trust Deed, dated the ................... day of ................. 19...., made between the Company of the one part and ................. .................. as Trustees for the Debenture-holders of the other part.

---

**Interest Payable Half-yearly on 1st January and 1st July.**

**This is to Certify** that the **Exemplary Company, Limited**, has received the sum of ................... pounds, being the amount due on an allotment of ................... pounds of the above Mortgage Debenture Stock, and on payment of all the remaining instalments and surrender of this certificate with all receipts for such instalments annexed thereto, the bearer is entitled to be registered as holder of the amount of stock allotted as aforesaid, and to receive a Stock Certificate in respect thereof, on and after 30th June, 19....

The remaining instalments, the amounts and due dates whereof are shown below, must be paid to the Company’s Bankers, West Bank, Ltd., 41 Oldbury, London, E.C.3, and this certificate produced at the times of payment. Default in payment of any instalment by the due date will render the amounts previously paid liable to forfeiture, and the allotment to cancellation.
A Coupon is annexed for interest on the instalments at 5% from the due dates thereof, payable at the Company's Bankers on 1st July, 19...

GIVEN under the Seal of the Company this ............... day of .............. .... 19....

(Signature and Seal of the Company)

Directors.

Secretary.

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

EXEMPLARY COMPANY, LTD.

5% Mortgage Debenture Stock.

Coupon for interest on instalments.


For and on behalf of the Company.

Secretary.

<table>
<thead>
<tr>
<th>No.</th>
<th>Exemplary Co., Ltd.</th>
<th>5% Mortgage Debenture Stock</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Received £...........</td>
<td>being amount of instalment due on 1st June, 19...</td>
</tr>
<tr>
<td></td>
<td>Date...............</td>
<td>For West Bank, Ltd.........</td>
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<td>Received £...........</td>
<td>being amount of instalment due on 1st April, 19...</td>
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<td></td>
<td>Date...............</td>
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<th>5% Mortgage Debenture Stock</th>
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<tbody>
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<td></td>
<td>Received £...........</td>
<td>Instalment due on 1st February, 19...</td>
</tr>
<tr>
<td></td>
<td>Date...............</td>
<td>For West Bank, Ltd.........</td>
</tr>
</tbody>
</table>

10—(B.6198)
**Specimen Register of Debenture Stockholders**

**Name** ........................................................................................................................................

**Address** ....................................................................................................................................

<table>
<thead>
<tr>
<th>Date</th>
<th>Transfer No.</th>
<th>No. of Cert.</th>
<th>Amount</th>
<th>Date</th>
<th>Transfer No.</th>
<th>Amount</th>
<th>Date</th>
<th>Amount</th>
<th>Balance Cert. No.</th>
</tr>
</thead>
<tbody>
<tr>
<td>5/5/19</td>
<td>65</td>
<td>899</td>
<td>500</td>
<td>5/8/19</td>
<td>197</td>
<td>250</td>
<td>31/12/19</td>
<td>250</td>
<td>1053</td>
</tr>
</tbody>
</table>

A register of debenture bond-holders would be ruled on similar lines except that the number of the bonds held and transferred would be shown instead of the certificate numbers.
CHAPTER XIII

SECRETARIAL DUTIES CONCERNING MEETINGS

A company is not corporately assembled so as to transact any business unless the meeting is convened by a proper notice which gives every member the opportunity of being present, and complies with law and the company's articles as regards stating the objects for which the meeting is held (Baillie v. Oriental Telephone Co. (1915)).

The regulations governing notices are drawn from the Companies Act, the company's articles, and from common law. The principal points requiring attention are enumerated below—

1. The notice must be adequate, and state clearly the place, day, and hour of the meeting, and if the meeting is convened to transact any special business, then a sufficient general indication of the nature of such business must be given, otherwise the meeting will be invalid (Lawes' Case (1852) and Kaye v. Croydon Tramways (1898)). This is a rule of common law, and is based upon the principle that where any special business is to be transacted, every person entitled to attend and vote at the meeting must be given adequate notice of the nature of such special business, so that he may exercise his own discretion whether or not to attend the meeting, otherwise he may consider the meeting to be just an ordinary one, i.e. he will think the business to be transacted is that which is usually transacted at an ordinary meeting, and that business only.

2. As to Length of Notice. The length of notice is usually determined by the articles. Clause 50 of Table A provides in relation to this matter as follows: "An annual general meeting and a meeting called for the
passing of a special resolution shall be called by twenty-one days' notice in writing at the least, and a meeting of the company other than an annual general meeting or a meeting for the passing of a special resolution shall be called by fourteen days' notice in writing at the least. The notice shall be exclusive of the day on which it is served or deemed to be served and of the day for which it is given, and shall specify the place, the day and the hour of meeting and, in case of special business, the general nature of that business.” The remainder of the clause should be studied closely. Clause 131 provides that "Where a notice is sent by post, service of the notice shall be deemed . . . to be effected . . . at the expiration of 24 hours after the letter containing the same is posted."

By Sect. 133, any provision of a company's articles shall be void in so far as it provides for the calling of a meeting (other than an adjourned meeting) by a shorter notice than: (a) in the case of the annual general meeting, 'twenty-one days' notice in writing; and (b) in the case of a meeting other than an annual general meeting or a meeting for the passing of a special resolution, fourteen days' notice in writing.

It was held in Railway Sleepers Supply Co. (1885), that the days of notice must be clear days, i.e. exclusive of the day of service and the day of the meeting, and this rule is followed in the present Table A.

3. As to Whom Notice must be Given. This will also be determined by the articles. If the articles are silent on the point, then by Sect. 134 notice must be given to every member in the manner in which notices are required to be served by Table A. Sect. 162 (4) contains new law to the effect that auditors must receive notice of all general meetings, and may also speak on any part of the business which concerns them as auditors. Clause 134 of Table A runs as follows: "Notice of every general meeting shall be given in any
SECRETARIAL DUTIES CONCERNING MEETINGS

manner hereinbefore authorized to (a) every member except those members who (having no registered address within the United Kingdom) have not supplied to the company an address within the United Kingdom for the giving of notices to them; (b) every person upon whom the ownership of a share devolves by reason of his being a legal personal representative or a trustee in bankruptcy of a member where the member but for his death or bankruptcy would be entitled to receive notice of the meeting; and (c) the auditor for the time being of the company. No other person shall be entitled to receive notices of general meetings.” Clause 51 provides that “the accidental omission to give notice of a meeting to, or the non-receipt of notice by, any person entitled to receive notice shall not invalidate the proceedings at that meeting.” As regards joint holders, articles usually provide that notice shall be effected by giving the notice to the first-named holder in the register of members. Articles also usually provide that members who are in arrear with calls are not entitled to receive notices of meetings.

4. The manner in which the notices are to be served will be determined by the articles, and if there is no provision therein, then Table A rules will apply by virtue of Sect. 134 before mentioned. See Table A, Clause 131.

5. Notices must be issued by the proper authority. The convening of meetings is usually left to the directors, and neither the secretary nor an irregularly constituted board meeting can convene meetings, although their act may be subsequently ratified by a properly constituted board meeting (Harben v. Phillips (1883)) and the ratification dates back to the performance of the act (per Cozens Hardy, J., in Hooper v. Kerr (1900)).

As regards the annual general meeting, Table A Clause 47, provides: “The company shall in each year hold a general meeting as its annual general meeting in
addition to any other meetings in that year, and shall specify the meeting as such in the notices calling it; and not more than fifteen months shall elapse between the date of one annual general meeting of the company and that of the next. Provided that so long as the company holds its first annual general meeting within eighteen months of its incorporation it need not hold it in the year of its incorporation, or in the following year. The annual general meeting shall be held at such time and place as the directors shall appoint.” By Clause 49 of Table A, directors have power to convene extraordinary general meetings whenever they think fit, or they may be requisitioned to convene such a meeting under the provisions of Sect. 132 of the Companies Act. If the directors fail to call such a meeting on requisition, the requisitionists themselves, or any of them representing more than one half of the total voting rights of all of them, may convene the meeting. Lastly, Sect. 134 provides that in so far as the articles of the company do not make other provision, two or more members holding not less than one-tenth of the issued share capital, or if the company has not a share capital, not less than 5 per cent in number of the members, may call a meeting.

6. The notice must not be contingent or conditional on the happening of some other event, otherwise it is insufficient (Chitty, J., in Alexander v. Simpson (1890)).

Invalid Notices

If the notice is invalid on any of the grounds mentioned previously, then the meeting is not properly constituted, and any proceedings thereat are not valid. To be rendered valid they must be ratified at a subsequent meeting, properly constituted, provided the latter meeting is held within a reasonable time of the former (Portuguese Copper Mines (1889)).

Invalid notices cannot be cured by the acquiescence
of those attending the meeting (*Pacific Gold Coast Mines v. Arbuthnot* (1917)), but (subject to Sect. 133, below) where all the members of the company are present and none object to the informality, want of proper notice will be excused, and the proceedings cannot afterwards be invalidated on that ground (*Machell v. Nevinson* (1809), and *in re Oxted Motor Co.* (1921)).

Sect. 133 now enlarges the rule in *Oxted Motor Co.* (1921). Annual general meetings may be validly convened by shorter notice than 21 days if agreed by all the members entitled to vote thereat; and in the case of any other meeting, by a majority in number of the members having a right to attend and vote, being a majority together holding not less than ninety-five per cent in nominal value of the shares giving a right to attend and vote. Sect. 133 also provides for the case of a company without a share capital.

**THE STATUTORY MEETING**

Every public company limited by shares and every company limited by guarantee and having a share capital, must hold a first general meeting, called the statutory meeting, within a period of not less than one month, nor more than three months, from the date on which the company becomes entitled to commence business (Sect. 130, Companies Act, 1948).

The secretary of a newly constituted company should therefore, as soon as the certificate entitling the company to commence business has been issued, make preparations for the holding of the statutory meeting.

**Notice of the Statutory Meeting**

When the date of the meeting has been fixed by the board of directors, the secretary will draw the notice convening the meeting, being careful to state that the notice is convening the statutory meeting.
If any business is to be transacted other than the discussion of the statutory report, and matters arising out of the formation of the company, specific notice thereof must be given.

The Statutory Report

The object of holding the statutory meeting is to acquaint shareholders of the progress of the company since incorporation, and to discuss matters arising out of the statutory report. The secretary will therefore direct his attention to the preparation of the statutory report, which must in compliance with Sect. 130 (3) set out the matters thereby required to be disclosed.

Having obtained the information necessary for its preparation, the secretary will proceed to draft the statutory report and obtain the approval of the directors thereto. The report will then be drawn up on the official printed form (obtainable from all law stationers), and it must be signed by at least two directors, or, where there are less than two directors, by the sole director and manager. The Act stipulates that as regards the shares allotted, cash received in respect thereof, and receipts and payments on capital account, the report must be certified by the auditors (if any). If auditors have been appointed prior to the statutory meeting, it will be necessary for the secretary to obtain their certificate and signature to the report.

Forwarding and Filing Statutory Report

Arrangements will have to be made for the printing of a sufficient number of copies of the statutory report, to be forwarded to members, etc., as required by the Act. (The statutory report and the notice convening the meeting are usually printed together.)

At least fourteen days before the day on which the meeting is to be held, a copy of the report must be forwarded to every member of the company and to
every other person entitled by the Act to receive it. Immediately after the copies have been forwarded to the members, the signed report, on the official printed form, must be filed with the Registrar of Companies, and it must bear an impressed fee stamp of 5s. Private companies are exempt from these provisions.

Other Requirements to be Observed

In compliance with Sect. 130 (6), the secretary must prepare a list showing the names, descriptions and addresses of members of the company, and the number of shares held by them respectively. The list must be open to inspection of any member during the continuance of a meeting.

The agenda for the meeting should next receive attention, and should be drawn up in collaboration with the chairman. A specimen agenda for a statutory meeting appears at page 308. A copy should be forwarded to each director. The secretary should provide himself with an indexed copy of the memorandum and articles of association for use, if necessary, at the meeting.

If the meeting is to be held elsewhere than on the company’s premises, the hiring of the hall or room where the meeting is to be held must be attended to. Admission cards may be issued along with notices convening the meeting if thought desirable. The auditors must receive notice, and the solicitors to the company may be invited if thought necessary.

Arrangements for dealing with proxies, supervision of admission to meeting, appointment of door-keepers, etc., should be attended to.

At the Meeting

At the meeting the secretary will read the notice convening the meeting, and exhibit the list of members for inspection. The chairman will address the meeting as to the position and prospects of the company, and
invite discussion of any matter pertaining thereto, or arising out of the statutory report, or relating to the promotion of the company.

The secretary will during the progress of the meeting make notes of the proceedings from which he will afterwards write up the minutes. The minutes of the statutory meeting are usually read at a board meeting following the statutory meeting, and if found to be a correct record, are signed by the chairman of such meeting.

Specimen minutes of a statutory meeting appear at page 320.

THE ANNUAL GENERAL MEETING

Sect. 131 (1) of the Companies Act, 1948, provides for the holding of an annual general meeting in the same words as Clause 47 of Table A, already set out, but the four further sub-sections of Sect. 131 should be noted.

Articles of association may provide as to the date on which the meeting shall be held, or, as in Table A, Clause 47, may leave the matter in the hands of the directors with power to fix the place and date of the meeting.

Some weeks prior to the date fixed for the meeting, the secretary should be making preparations for the convening and holding of the meeting. The first matters to receive his attention will be the closing of the transfer books, the drafting of both the notice convening the meeting and the annual report of the directors, and the compilation of complete agenda.

Closing of Transfer Books

If it is intended to declare a dividend at the annual general meeting, the transfer books will be closed for the purpose of balancing the share registers and preparing the dividend lists and warrants. The period during which the transfer books are closed will be decided
at a previous board meeting and a resolution will be passed closing the books. The general practice is to close the books for a period (usually fourteen days) expiring on the day appointed for the holding of the meeting. This fixes definitely the names of those members entitled to receive notice of the meeting, and entitled to receive dividends, as there can be no change in membership during the time the notices and dividend warrants are being prepared, because registration of transfers will be suspended for this period.

As to closing of transfer books, see page 186.

On the first day of the closed period the secretary should immediately deal with any transfers awaiting registration, and proceed with the balancing of the share registers in order to ascertain the names of those members entitled to receive notice of the annual general meeting, and to whom dividends are to be paid. Preparations may also safely be made for payment of the dividend, compilation of dividend lists, printing and stamping of dividend warrants. Since articles of association usually provide that dividends shall not exceed the rate recommended by the directors (Table A, Clause 114, so provides), it is quite certain that the rate recommended cannot be increased by the shareholders in general meeting, and it is almost equally certain that the shareholders will not pass an amendment reducing the rate of dividend recommended by the directors.

**The Notice Convening the Meeting**

The length of notice given will be determined by the company's articles. In default of provisions in the company's articles, Table A will apply, but in no case must it be less than twenty-one clear days. In drafting the notice the secretary should be careful specifically to state any special business—for example, where a
shareholder has lodged special notice of his intention to nominate an auditor in the place of the retiring auditor—otherwise such special business cannot be validly transacted.

Incidentally, intention to nominate a fresh auditor, or providing expressly that a retiring auditor shall not be reappointed, has now to be by special notice of 28 days (see Sects. 142 and 160). On receipt of such an intended resolution the company must forthwith send a copy to the retiring auditor (if any). The retiring auditor may make representations in writing to the company, requesting notification to the members. The company shall then, unless the representations are received too late, (a) state the fact in the notice that the representations have been made, and (b) send a copy of the representations to every member to whom notice of the meeting is sent. If a copy of the representations is not sent, because received too late or because of the company's default, the auditor may, besides retaining his right to speak, require that the representations shall be read out at the meeting. Sect. 160 should be referred to for further details.

Notice must be given in accordance with the articles to every person entitled thereto, including the auditors. To ensure that only members of the company will obtain admission to the meeting, admission cards should be forwarded to each member, with a notification that admission to the meeting will be allowed only on delivering up the admission card (duly signed by the member).

In compliance with Sect. 158 (1) of the Companies Act, 1948, a copy of every balance sheet shall, not less than twenty-one days before the date of the meeting, be sent to every person specified in Sect. 158 (1), and such balance sheet shall have been signed by two directors, or by the sole director if there is only one (Sect. 155 (1)). Further, by Sect. 156 (1) the profit and
loss account (and group accounts where applicable) shall be annexed to the balance sheet, to which the auditors' report must be attached. A copy of the directors' report must also be attached (Sect. 157 (1)).

The Annual Report

One of the documents that have to be attached to the balance sheet is the directors' report on the state of the company's affairs (Sect. 157 (1)). The terms of the report should be agreed upon at a previous board meeting, the secretary being instructed to draft the report and to present it for final approval at a subsequent board meeting. (The reader is referred to page 65 for a specimen directors' report.)

The secretary will then make arrangements for printing, for circulation to members, (1) the notice convening the meeting, (2) admission cards, (3) copies of the annual report, and copies of the accounts and balance sheet, as duly certified by the auditors and signed on behalf of the board by two directors, or a sole director, in accordance with Sect. 155 (1) of the Companies Act, 1948.

The auditor must also be summoned to attend the meeting to read his report (for auditors have a right to notice of every general meeting), although some other person may perform this duty if the auditor is not present, and if a shareholder has lodged special notice of his intention to nominate another auditor, the retiring auditor, as well as all shareholders, must be notified thereof (Sect. 142 and Sect. 160).

It is usual to ask the company's legal adviser to attend the meeting to advise the chairman should it be necessary.

Proxies

A proxy may be defined as a person authorized to act and vote for another at a meeting, though the
expression is commonly applied to the document by which the proxy is appointed. Sect. 136 contains the important new provision that any member of a company entitled to attend and vote shall be entitled to appoint another person (whether a member or not) as proxy to attend and vote instead of him. In the case of private companies a proxy may also speak. Unless articles otherwise provide, a member of a private company cannot appoint more than one proxy, nor shall a proxy be entitled to vote except on a poll. In every notice calling a meeting there must appear with reasonable prominence a statement that a member entitled to attend and vote is entitled to appoint a proxy or (where it is allowed) one or more proxies. Sect. 136 goes on to state that a provision in articles shall be void if an instrument appointing a proxy is required to be received more than 48 hours before a meeting or adjourned meeting. If invitations to appoint a person or one of a number of named persons as proxies are forwarded by the company to any of the members, such invitations must be sent to all the members entitled to attend and vote, a fine of £100 being prescribed for failure to do so: but a proxy form or a list of persons willing to act as proxy may be given to any member who so requests, provided that the same form or list is available to every member who may apply therefor.

Clauses 67–73 of Table A contain further provisions as to proxies. Clauses 70 and 71 are of special importance. The 1929 Table A (Clause 61), which gave a form of proxy, did not provide for the proxy’s failure to attend, but Clause 70 now provides for a second proxy to be named in case the first proxy fails to attend. Clause 71 is new, and provides for the case where it is desired to afford members an opportunity of voting for or against a resolution. The new proxy form, besides providing for absence of the first proxy named, states
that the form may be used in favour of or against a
resolution. These are the debatable "two-way" proxies
required by the Stock Exchange but opposed by some
sound authorities on the ground that a carefully-
prepared scheme could be wrecked by hostile members
who had no access to the full information which
actuated the policy of the directors. Undoubtedly
some boards have in the past stampeded the members
by providing for one-way proxies entitling certain
members of the board to vote—which obviously would
be in the affirmative. The only remedies possessed by
the member are either to fail to return the proxy or to
press for the removal of the directors—or both. These
are admittedly poor remedies in practice, as some
shareholders will sign and return any proxy form they
receive, without considering its purport. It is sub-
mitted that on balance the "two-way" proxy is
preferable.

Proxies must be scrutinized to ascertain that they
are in the correct form and are properly signed. If
a proxy is incorrect in any respect, it should be re-
turned to the member for amendment. Any proxies
lodged after the stipulated time limit must be returned
with a note that they cannot be accepted. Each proxy
if found to be in order is countersigned by the secretary
as correct, recorded in a register of proxies, and re-
turned to the member, together with an admission
card made out in the name of the proxy.

A proxy is revoked by the death of the member
granting it. The member may also revoke the proxy
by written notice of revocation to the company, or by
granting another proxy later in date in favour of some
other person, provided the second proxy is lodged with
the company within the prescribed time. If a proxy
is revoked in any manner, the register of proxies must
be amended to show the manner of revocation. On the
day before the meeting the secretary should draw up a
list of valid proxies in force, for the purpose of regulating admission to the meeting and also to facilitate voting if a poll is demanded.

"In the absence of any special contract between a shareholder and the company expressly excluding the right to vote in person where a valid proxy has been given, the right of shareholders to vote in person is paramount to the right of the proxy." (Cousins v. International Brick Co. (1931).)

Poll

Sect. 137 contains important new provisions. Articles are void if they exclude the right to demand a poll at a general meeting on any question other than the election of the chairman or the adjournment of the meeting. Nor must articles make ineffective a demand for a poll which is made either—

1. by not less than five members having the right to vote; or
2. by a member or members representing not less than one-tenth of the total voting rights of all the members having the right to vote; or
3. by a member or members holding shares conferring a right to vote, being shares on which an aggregate sum has been paid up equal to not less than one-tenth of the total sum paid up on all the shares conferring that right.

The section closes with the provision that the instrument appointing a proxy confers authority to demand or join in demanding a poll.

Sect. 138 is also new law. It provides that on a poll taken at a meeting of a company or at a meeting of any class of members, a member need not use all his votes or cast all the votes he uses in the same way. This may seem a curious provision but what is visualized is a nominee company holding a block of shares on behalf
of several persons. It is obvious that some might wish to vote one way and some the other.

The reader will find that there are several clauses in Table A dealing with polling, notably Clauses 58–62, 64, 67 and 72.

**Preparations for Polling**

Where it is expected that a poll will be demanded preparations should be made. Polling may be conducted in a number of ways—

1. A voting list is prepared on the lines of the specimen given on page 304. A list of proxies in force should also be drawn up. Those wishing to vote sign the voting list and write the number of votes to which they are entitled in either the column headed “For” or “Against,” according to the way they wish to vote. Proxies sign their own name and also the name of the appointor. The register of members (or a list of members) is taken to the meeting and the votes are checked by the secretary (or scrutineers, if such have been appointed), totalled, and the figures communicated to the chairman, who then declares the result.

2. An alphabetical list of members is drawn up on the same lines as the voting list referred to above. To record their votes, voters sign a voting paper in the form shown on page 303, making a cross in either column “For” or “Against.” Alternatively, each member present may be given a separate slip of paper whereon to record his vote. The votes having been cast, they are recorded in the list of members by the secretary or scrutineers, the number of votes to which each voter is entitled being entered in the column “For” or “Against,” according to the way each voted, and these columns are totalled and the figures communicated to the chairman, who declares the result.
If the company has a very large body of shareholders the compiling of a list of members would take a great deal of time, and as only a comparatively small number of members might attend the meeting, the labour of compiling a list of members would be wasted. In such circumstances, the best course would be to follow the procedure outlined under head 1.

3. If the articles permit, a poll may be taken by post. Each member is supplied with a voting paper which he completes and signs, and returns to the company, the voting list being written up therefrom. A time limit for sending in voting papers would have to be fixed.

**Immediate Preparation for the Meeting**

The secretary should prepare a detailed agenda setting forth every step in the conduct of the meeting, the motions to be proposed, and the names of those members with whom arrangements have been made to propose and second the motions. A specimen of such an agenda appears at page 308. A copy of this agenda should be in the hands of every member of the board of directors. It is usual for the agenda paper to have ample space on the right-hand side, so that the directors may make notes if they desire.

Door-keepers must be appointed to regulate admission to the meeting. This duty is usually delegated to members of the secretary's staff. It is recommended that two door-keepers should be appointed—one to see that each person seeking admission produces a signed admission card—the other to check the cards. The latter will be provided with an alphabetical list of members and a list of proxies granted, and as the admission cards are surrendered and the members and proxies admitted, he will mark off the lists opposite the appropriate name.

A person acting as proxy must produce, duly signed,
an admission card issued when the proxy was lodged for registration.

The right of a member to vote in person is paramount to the right of his proxy, unless there is a special contract with the company providing otherwise.

At the Meeting

At the meeting the secretary will read the notice convening the meeting unless this is taken as read. It is the practice to read any communications from members of the board who are unable to attend the meeting, apologizing for their absence.

The secretary should have at hand an indexed copy of the memorandum and articles of association, for reference if necessary.

During the progress of the meeting, the secretary should make notes of the proceedings and record verbatim the terms of all resolutions passed, from which he will subsequently compile the minutes.

MEETINGS OF DIRECTORS

The regulations as to the convening of meetings of directors are usually contained in the articles of association. Clause 98 of Table A provides that "The directors may meet together for the dispatch of business, adjourn, and otherwise regulate their meetings, as they think fit. . . . A director may, and the secretary on the requisition of a director shall, at any time, summon a meeting of the directors." As most articles are based on Table A, it is not uncommon to find clauses similar to the above in companies' articles generally, giving directors a wide discretion as to the regulation of their meetings, but so that business may be conducted in an orderly and efficient manner, the board usually draw up a set of rules concerning how, where, and when they shall meet, and otherwise regulating their
meetings. These are commonly referred to as “Standing Orders.”

Despite the old rule that “directors cannot think without meeting” (Portuguese Copper Mines (1889)), Table A, Clause 106, now provides that “A resolution in writing, signed by all the directors for the time being entitled to receive notice of a meeting of the directors, shall be as valid and effectual as if it had been passed at a meeting of the directors duly convened and held.”

The standing orders will contain provisions as to notices of meetings. Where meetings are held at regular intervals, notice is usually dispensed with, unless there is some special business to transact. Failure to give notice of special business is not of so great importance as in the case of meetings of shareholders, because directors are a select managing body having power to deal with all the affairs of the company. The secretary should not, however, take any risks in this connection, and if there is any doubt, definite notice should be given.

Where there are no fixed regulations as to the convening of regular meetings, the secretary should be careful to see that notice is given to all directors, otherwise the meeting is invalid (Portuguese Copper Mines, Steele’s Case (1889)). Notice need not, however, be given to a director who is abroad or out of reach, unless the articles so provide (Halifax Sugar Co. v. Francklyn (1890)). There is also a new provision in Table A, Clause 98, which states that “It shall not be necessary to give notice of a meeting of directors to any director for the time being absent from the United Kingdom.”

Where the regulations do not fix any definite length of notice, the notice must be sent a reasonable time before the date of the meeting. The form of notice convening a meeting of directors is usually as follows—
SECRETARIAL DUTIES CONCERNING MEETINGS 293

THE EXEMPLARY COMPANY, LIMITED

Notice is hereby given that a Meeting of the Directors will be held at the Company's Offices on Thursday, 23rd inst., at 3 p.m.

Agenda
General Business
By Order of the Board,
G. Smart, Secretary.

99 Lune Street, E.C.1
15th August, 19...

It is the practice to forward a copy of the agenda paper with the notice of the meeting, instead of setting out the agenda in the body of the notice, as above.

First Meeting of Directors

The first meeting of directors calls for special attention. There will, of course, have been many preliminary meetings of promoters and others interested in the formation of the company, but the meeting now referred to is the first meeting of the directors after the company has been registered, and the certificate of incorporation issued. At this meeting there will be numerous necessary matters to be attended to, consequent upon the registration of the company, and which must be dealt with to prepare the way for the carrying on of the company’s business. Amongst such matters may be mentioned: Appointment of the chairman of the company, appointment of managing director, secretary, and other officers, adoption of preliminary contracts, adoption of seal, making arrangements with bankers, etc.

In the case of a public company, there may be also the question of the issuing of a prospectus, and raising the capital of the company. The capital of the company may have been already subscribed privately, or even publicly, as a prospectus may be issued in relation to an intended company, the promoters of which will not incur the expense of registration until they can be assured that the investing public are interested in the
proposed company, and that the necessary capital is forthcoming.

A detailed agenda for the first meeting of directors appears at page 307.

**Preparation for Meetings of Directors**

Directors' meetings will be held as and when required, or at fixed intervals of, say, a week or a fortnight, as arranged. A reasonable time before the date fixed for a meeting, the secretary will prepare the notice convening the meeting (unless the necessity for giving notice has been dispensed with by the directors themselves, or by standing orders).

During the intervals between board meetings, the secretary should make notes of all the matters which require to be brought before the next board meeting for consideration, such as the preparation of a report on some special matter. From the notes made, the secretary will prepare the agenda for the next meeting, collaborating with the chairman in this respect.

The secretary must be careful to include on the agenda any motion or proposal to be brought before the meeting, of which any director has given due notice of motion. Even where the necessity of giving notices of board meetings is waived, it is recommended that copies of the agenda should be forwarded to the directors a reasonable time before the meeting date.

**Immediate Preparations**

The secretary should prepare for the meeting well in advance, and he should have at hand everything likely to be required at the meeting. In addition to the usual stationery, pens, ink, blotting-paper, etc., the following should be in readiness at the meeting: the board-meeting minute book (with the minutes of the last meeting duly recorded), the seal, an indexed copy of the memorandum and articles of association,
financial statement to be considered, together with the bank pass book(s) and reconciliation statement, correspondence to be read and considered at the meeting, transfers to be passed, share certificates, contracts, and agreements to be signed and sealed, copies of any reports to be considered.

On the day preceding the meeting, the secretary should read through the agenda and generally satisfy himself that everything likely to be required at the meeting is in readiness.

At the Meeting

At the meeting, the secretary should obtain, in the directors’ attendance book, the signature of each director present (a specimen ruling of a directors’ attendance book is shown at page 302). It is the primary duty of a secretary so to assist the chairman in the conduct of the meeting that the business to be transacted is disposed of in an efficient and expeditious manner. The secretary should provide himself with a draft minute book wherein to record notes of the proceedings, and the terms of the resolutions passed at the meeting, which notes will form the basis of the minutes to be subsequently compiled.

EXTRAORDINARY GENERAL MEETINGS

It should be observed that the only difference between a notice convening an extraordinary general meeting to pass an extraordinary resolution, and a notice convening a similar meeting to pass a special resolution, is that in the latter case at least 21 days’ notice must be given (Sect. 141 (2)). It must always be remembered that much business that is special (such as increase of capital) can be effected by passing an ordinary resolution. Thus, special business can be transacted by ordinary, extraordinary or special resolution, at either an extraordinary general meeting or an annual general meeting. It should be noted that Sect.
141 (2) also adds a new proviso stating that a resolution of which less than twenty-one days’ notice has been given may be passed as a special resolution if it is so agreed by a majority in number of the members having the right to attend and vote at the meeting, being a majority together holding not less than ninety-five per cent in nominal value of the shares giving that right, or, in the case of a company not having a share capital, together representing not less than ninety-five per cent of the total voting rights at that meeting of all the members.

The necessary preparation for extraordinary general meetings will be similar to that for the annual general meeting, with such additional preparation as is necessitated by the special business for which the meeting is convened. The secretary must give attention to the following matters—

1. The notice convening the meeting must state the special business for which the meeting is convened, and if a special or extraordinary resolution is to be passed, the terms of the proposed resolution should be set out in full. In the case of extraordinary or special resolutions, the notice must state that it is the intention to propose the resolution as an extraordinary or special resolution as the case may be.

2. If a poll is anticipated, the necessary preparations therefor should receive attention.

3. Where proxies are expected, as when a poll is probable at the meeting, arrangements should be made for the registration of proxies.

COMMITTEE MEETINGS

In the case of large companies, the board of directors usually find it convenient, and often necessary, to delegate certain matters to a committee of their number, but the directors may only delegate their powers in this manner if the articles of association so provide.
By so doing, the full board will probably not need to meet more than four or five times each year.

Table A, Clause 102, provides that "The directors may delegate any of their powers to committees consisting of such member or members of their body as they think fit; any committee so formed shall in the exercise of the powers so delegated conform to any regulations that may be imposed on it by the directors." It will be observed that under this clause a committee may consist of only one director.

Committees may be formed for special purposes, e.g. to consider the inauguration of a pensions scheme for the company's employees, and to report to the board thereon. Permanent committees are usually formed to conduct routine business such as "Share Transfers," "Finance," etc.

The terms of the resolution appointing the committee will indicate the manner in which the board is to be informed of, and kept in touch with, the proceedings of the committee. In some companies the chairman of the board is ex officio a member of all committees, and cohesion is thereby gained. In the case of permanent committees, it is both usual and desirable that a separate minute book be kept to record the business transacted by that committee, these minutes to be submitted periodically to the board. On the other hand, the terms of the resolution appointing the committee may require that a report of the proceedings of the committee be submitted to each board meeting.

Where a special committee has been appointed, it is commonly provided that a report of the committee's proceedings, findings, and recommendations, be presented for consideration to the board of directors.

As regards meetings of the committee, either the articles of association, or the terms of the resolution of appointment, should provide the regulations as to the manner in which the committee is to meet to
transact its business; or "Standing Orders," if any, may contain these regulations. If no provisions for regulating committee meetings are contained in the articles of association, or in the terms of the resolution of appointment, or in any standing orders, then Table A applies, unless excluded by the company's special articles of association.

Clause 104 of Table A provides that "A committee may meet and adjourn as it thinks proper . . . ." Given such a power, a committee will probably draw up its regulations as to how, and when, it shall hold its meetings. Permanent committees usually fix a regular day and time for meetings, and if this is done, the necessity for giving notice of meetings will be dispensed with, save in circumstances when it is necessary to call a special meeting of the committee. In the case of a special committee, it is usual at each committee meeting to fix the date and time of the next meeting. Notice should, however, be given to any member of the committee who was absent, and thus will not know the date fixed for the next meeting.

MEETINGS CONVENED ON REQUISITION OF SHAREHOLDERS

Shareholders holding in the aggregate one-tenth of such of the paid-up capital of the company as at the date of the deposit of the requisition carries the right of voting at general meetings of the company, may requisition the directors to call a meeting, and the directors must forthwith proceed to convene a meeting as required (Section 132).

The requisition must state the objects of the meeting, and must be signed by the requisitionists and deposited at the registered office of the company. If the directors do not within twenty-one days from the depositing of the requisition proceed to convene a meeting, the requisitionists, or any of them representing more than
one-half of the total voting rights of all of them, may themselves convene the meeting, but such meeting must be held within three months from date of requisition. The right to requisition a meeting as stated above is a statutory right, and cannot be waived or altered by the company's articles of association.

Arising out of the above, the further fresh legislation of Sect. 140 should be noted. This provides that members may require the circulation by the company of motions to be proposed at the annual general meeting, and of statements not exceeding a thousand words in length regarding any matter referred to in any proposed resolution or the business to be transacted at any extraordinary general meeting. The motion or statement must be sponsored respectively by (a) any number of members representing not less than one-twentieth of the total voting rights, in the case of an annual general meeting; or (b) not less than one hundred members holding £10,000 paid up capital in the case of an extraordinary general meeting.

SPECIAL NOTICE

Sect. 142 introduces a new provision. Certain powers exercisable by a company in general meeting can only be exercised by a motion of which special notice has been given. Such notice must normally be given to the company not less than 28 days before the meeting at which it is to be moved, and the company must give notice to the members not less than 21 days before the meeting. Special notice is required (a) for appointing as auditor a person other than the retiring auditor, or providing expressly that such retiring auditor be not reappointed (Sect. 160); (b) for removing a director by ordinary resolution, or to appoint somebody instead of a director so removed (Sect. 184); (c) for appointing as director a person who has reached any age limit that applies (Sect. 185).
Specimen Notice Convening Statutory Meeting

THE EXEMPLARY COMPANY, LIMITED

99 Lune Street, E.C.1

6th July, 19...

Notice is hereby given that in accordance with the provisions of Section 130 of the Companies Act, 1948, the Statutory Meeting of this Company will be held at the Common Hall, Victoria Street, London, S.W.1, on Thursday, the 23rd day of July, 19..., at 3 o'clock in the afternoon.

A copy of the Report required to be sent to the members by the above-mentioned section accompanies this notice.

By Order of the Board,

G. SMART, Secretary.

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Specimen Notice Convening Annual General Meeting

THE EXEMPLARY COMPANY, LIMITED

Notice is hereby given that the First Annual General Meeting of the members of this Company will be held at the Common Hall, Victoria Street, London, S.W.1, on Thursday, the 23rd day of July, 19..., at 3 o'clock in the afternoon, for the following purposes—


2. To declare a Dividend.

3. To elect Directors in the place of Mr. John Brown and Mr. Arthur Saunders, who retire by rotation, and, being eligible, offer themselves for re-election.

4. To fix the Auditors’ fee.

5. To transact the other ordinary business of the Company.

Notice is also given that the Transfer Books of the Company will be closed from the 16th July to the 23rd July, 19... (both days inclusive), for the purpose of paying Dividends.

Members are reminded of their statutory right to appoint a proxy (or proxies), who need not be a member of the Company.

By Order of the Board,

G. SMART, Secretary.

99 Lune Street, E.C.1

30th June, 19...
Specimen List of Proxies

<table>
<thead>
<tr>
<th>Appointor</th>
<th>Share Reg. Folio</th>
<th>No. of Shares</th>
<th>Name of Proxy</th>
<th>No. of Votes</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>Pref. Ordy.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>J. Black</td>
<td>16</td>
<td>100</td>
<td>A. White</td>
<td>100</td>
</tr>
</tbody>
</table>

Specimen Notice Convening the First Meeting of Directors

THE EXEMPLARY COMPANY, LIMITED

The First Meeting of the Directors of this Company has been arranged to take place at the Registered Office of the Company, 99 Lune Street, E.C.I., on Wednesday, the 8th day of June, 19.., at 3 p.m.

A copy of the Agenda is enclosed.

Yours faithfully,

For the Exemplary Company, Limited,

G. Smart, Secretary pro. tem.

99 Lune Street, E.C.I
1st June, 19..

Specimen Notice Convening an Extraordinary General Meeting

THE EXEMPLARY COMPANY, LIMITED

Notice is hereby given that an Extraordinary General Meeting of the Members of this Company will be held at the Common Hall, Victoria Street, London, S.W.1, on Thursday, the 23rd day of July, 19.., at 3 o'clock in the afternoon, when the subjoined Resolution will be submitted to the Meeting to be passed in the manner required for the passing of a special Resolution—

That the Ordinary Share Capital of the Company be reduced from £100,000 to £50,000, by writing down each fully-paid One Pound Ordinary Share to the value of Ten Shillings fully-paid,
and that a Petition be made to the Court for an order confirming this reduction.

Members are reminded of their statutory right to appoint a proxy (or proxies), who need not be a member of the Company.

By Order of the Board,

G. SMART, Secretary.

99 Lune Street, E.C.1
30th June, 19...

**Specimen Directors' Attendance Book**

<table>
<thead>
<tr>
<th>Director</th>
<th>Dates of Meetings and Directors' Signatures, 19..</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>July 2</td>
</tr>
<tr>
<td></td>
<td></td>
</tr>
</tbody>
</table>

**Specimen Notice Convening a Committee Meeting**

THE EXEMPLARY COMPANY, LIMITED

99 Lune Street,
London, E.C.1
4th September, 19...

Dear Sir,

The next Meeting of the Committee appointed to consider the advisability of inaugurating a Pensions Scheme for the Company's employees will take place at the Offices of the Company, on Monday, the 12th September, 19., at 3 p.m.

Yours faithfully,

G. SMART, Secretary.

**Specimen Notice Convening Meeting on Requisition**

THE EXEMPLARY COMPANY, LIMITED

Notice is hereby given that in accordance with a Requisition deposited by shareholders of the Company, under the power conferred on them by Section 132 of the Companies Act, 1948, an Extraordinary General Meeting will be held at the Registered Office of the Company, on Thursday the 17th day of
SECRETARIAL DUTIES CONCERNING MEETINGS 303

November, 19... at 12 noon, when the following Resolution will be submitted to the meeting to be passed in the manner required for the passing of a Special Resolution—

That application be made to the Board of Trade for the appointment of an inspector to investigate the affairs of the Company.

Members are reminded of their statutory right to appoint a proxy (or proxies), who need not be a member of the Company.

By Order of the Board.

G. SMART, Secretary.

99 Lune Street, E.C.1
24th October, 19...

Specimen Voting Paper

MOTION before Extraordinary General Meeting held on... ... ... day of......... ........ 19..... “ That .. .”

<table>
<thead>
<tr>
<th>Signature of Voter</th>
<th>Appointor of Proxy (if any)</th>
<th>FOR</th>
<th>AGAINST</th>
</tr>
</thead>
<tbody>
<tr>
<td>J. Green</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>A. White</td>
<td>J. Black</td>
<td>×</td>
<td></td>
</tr>
<tr>
<td>A. White</td>
<td></td>
<td>×</td>
<td></td>
</tr>
</tbody>
</table>

Separate sheets may be used for “For” and “Against” if thought desirable. If there are several resolutions it may be less confusing to voters if a separate voting list is used for each resolution.
**Specimen Voting List**

Motion before Extraordinary General Meeting held on.............day of..................19........... "That . . . ."

<table>
<thead>
<tr>
<th>Signature of Member</th>
<th>Share Reg. Folio</th>
<th>No. of Shares</th>
<th>No. of Votes</th>
<th>Votes by Proxy</th>
<th>For</th>
<th>Against</th>
<th>Remarks</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Pref.</td>
<td>Ordy.</td>
<td>Appointor</td>
<td>Sh. R. Folio</td>
<td>No. of Shares</td>
<td>No. of Votes</td>
<td></td>
</tr>
<tr>
<td>A. White</td>
<td>10</td>
<td>100</td>
<td>100</td>
<td>200</td>
<td>J. Black</td>
<td>16</td>
<td>100</td>
</tr>
<tr>
<td>J. Green</td>
<td>19</td>
<td>—</td>
<td>200</td>
<td>200</td>
<td>—</td>
<td>—</td>
<td>—</td>
</tr>
</tbody>
</table>

If there is more than one resolution, all should be set out at the head of the List and numbered, and additional columns "For" and "Against" ruled to record the voting on each separate resolution, each pair of columns being headed with the number of the resolution.
CHAPTER XIV

AGENDA AND MINUTES

The term "Agenda" literally means "things to be done." It is used in the business world to indicate the items of business to be transacted at a meeting, although it is commonly used to mean the "Agenda Paper." Agenda is the genesis of the meeting to be held and the minutes subsequently to be made; it is a statement of the business to be transacted at a meeting, and the order in which such business is to be dealt with.

An agenda has a two-fold object—it enables business to be transacted, and it particularizes the nature of such business. Its careful preparation is a necessary preliminary to the holding of a successful meeting. It is drawn up by the secretary, partly on his own responsibility, i.e. for routine matters, and partly on the responsibility of the chairman as regards matters of special importance.

At meetings of directors, it is the general practice to provide each director with a copy of the agenda on a loose sheet, but to keep the agenda used by the chairman in a bound book, using one side of the opening for the agenda, and the other side for the chairman's notes. It is said that the advantages accruing from this method are (1) the agenda of any particular meeting can be easily traced at any future time, (2) should the correctness of the minutes be questioned, the production of the chairman's notes in the agenda book will place the matter beyond all doubt. On the other hand, it is argued that the keeping of a double record is not advisable, since the two might not always agree. The authors subscribe to this view, and recommend that agenda be drawn up on loose sheets, copies of which should be retained and filed in date order, so that
there is a record of the business included in an agenda if any question subsequently arises on this point. After the minutes of any particular meeting have been read, approved, and signed by the chairman as being a correct record, the chairman’s notes relating thereto should be destroyed, as there is no purpose in keeping them after the minutes have been signed.

The order in which business is usually stated on the agenda is as follows—

1. Election of chairman of the meeting (if this has not already been done).
2. Minutes of last meeting.
3. Routine matters such as correspondence, share transfers, etc.
4. New business, or discussion of some matter previously in hand.
5. Any other business.

Matters of a similar nature should be grouped together, or placed one after the other.

An unattractive agenda does not encourage attendances, and therefore the agenda should be full and informative, and should not be a mere list of headings. Although it is the common practice to proceed with the business in the order laid down in the agenda, the chairman may, with the consent of the meeting, deviate from that order if there is a sufficient reason for so doing.

**Loophole Agendum**

The item "Any other business" is invariably stated last on an agenda paper but is superfluous as any minor items, even though they are not specifically included in the agenda, may always be validly transacted, provided they are within the scope of the meeting.

Special business should be the subject of a definite heading on the agenda, and cannot be transacted under the heading "Any other business."
Specimen Agenda

Specimen Agenda for First Meeting of Directors

THE EXEMPLARY COMPANY, LIMITED

First Meeting of Directors to be held Monday, 9th day
of January, 19—, at 10 a.m.

1. The election of Chairman of the Meeting.
2. The election of Chairman of the Company.
3. The Solicitor to produce Certificate of Incorporation,
   No., dated 12th December, 19...
4. Appointment of Managing Director.
5. Appointment of Secretary.
6. Appointment of Auditors.
7. Appointment of Bankers, and regulations as to the draw-
   ing and endorsing of cheques for and on behalf of the
   Company.
8. The adoption of a contract appointing Mr. Arthur Black
   as Works Manager, for a period of five years, at a
   salary at the rate of £1,000 per annum.
9. The Common Seal to be produced for the Directors’ approval
   with a view to adoption as the Official signature of the
   Company, and as to the custody of the keys.
10. The consideration of the draft Prospectus to be produced
    and read by Mr. Deeds, the Solicitor to the Company—
    adoption, filing, and issue thereof.
11. Date of next meeting.
12. Any other business.

NOTES. Purchase agreement with vendors. This is
often a matter for consideration at the first board
meeting. The company’s solicitor generally produces
the agreement between the vendors and the company,
and after he has explained the effect of the various pro-
visions, the meeting proceeds to complete the contract
by affixing the seal thereto, passing resolutions allotting
shares to the vendors, authorizing the drawing of
cheques for the balance of the purchase money payable
in cash, etc.

Re item 7. Bankers usually have their own form of
resolution appointing them bankers to the company,
and incorporating special provisions as to the drawing
of cheques and otherwise dealing with the company’s
account, and bankers usually request that their form
of resolution be adopted.
Agenda for Statutory Meeting

Statutory Meeting of the Exemplary Company, Limited, held at the Registered Office of the Company, on Thursday the 23rd day of July, 19..., at 3 p.m.
1. Speech by Chairman.
2. Chairman to exhibit List of Members and invite discussion and questions on the Statutory Report, and matters relating to the formation of the Company.
3. Approval of the modification of the Purchase Agreement between the Company and the Vendors, Messrs. Arthur Black and James Green, referred to in the Statutory Report.
4. Vote of thanks to the Chairman.

Agenda for a Board Meeting

THURSDAY, 23RD AUGUST, 19..., 10.30 a.m.

1. Minutes of previous Meeting. The Secretary to read the minutes of the Board Meeting held on 9th inst. The Chairman to sign the Minutes if it is agreed they are a correct record of the proceedings.
2. Arising out of Minutes. Mr. Brown to report the result of the negotiations with Messrs. Jones and Smith, of Birmingham, respecting the proposed appointment of this firm as the Company's representatives in Birmingham.
3. Financial Statement. The Secretary to produce the Financial Statement for the past fortnight, together with the Bank Pass Book and Reconciliation Statement.
4. Share Transfers. The Secretary to submit Transfer Deeds, Nos. 151 to 176, for approval, and Certificates, Nos. 5151 to 5176, to be sealed and signed in place of Certificates cancelled.
5. Sealing of Contract. The contract between the Company and Abels, Limited (as approved by the Company’s Solicitor), for reconstruction work at the London Factory, to be submitted for approval, and to sanction the affixing of the Common Seal thereto.
6. Date of next Meeting.
7. Any other business.

Agenda for Annual General Meeting

THE EXEMPLARY COMPANY, LIMITED

AGENDA FOR SECOND ANNUAL GENERAL MEETING

to be held at the Common Hall, Victoria Street, London, S.W.1, on Thursday, the 26th day of April, 19..., at 12 noon.

1. Notice. The Secretary to read the notice dated 2nd April, 19..., convening the meeting.
2. *Directors' Report.* The Chairman to move that the Directors' Report and Accounts, as printed and circulated, shall be taken as read.

3. *Auditor's Report.* Mr. F. Figures, the Company's auditor, to read his Report on the Accounts and Balance Sheet.

4. *Chairman's Address.* The Chairman to address the meeting on the Company's position and prospects.

5. *Discussion on Report, etc.* The Chairman:

   (a) To move "That the Report and Accounts for the year ended 31st December, 19..., as audited and certified by the Company's Auditor, and now submitted to this meeting be, and the same are hereby, approved and adopted."

   (b) To call on Mr. James Green to second the Motion.

   (c) To invite shareholders' discussion on the motion.

   (d) To reply to relevant questions.

   (e) To put the Motion to the meeting, and declare the result.

6. *Auditor.* A Shareholder to move, another Shareholder to second, "That Mr. F. Figures, Chartered Accountant, having agreed to continue in office as auditor for a further year, his fee be fixed at £..." The Chairman to put the motion to the meeting and declare the result.

7. *Re-election of Directors.* Mr. Brown to move—"That Mr. William White, the Director retiring by rotation and being eligible for re-election, be, and he is hereby, re-elected a Director of the Company."

   A Shareholder to second, the Chairman to put the motion to the meeting and declare the result.

8. *Dividend.* The Chairman to move—"That the Dividend recommended by the Directors, viz., 10 per cent on the Ordinary Shares for the year ended 31st December, 19..., be, and is hereby, declared; and that the said dividend be paid on 1st May, 19..., to those shareholders whose names appear on the Register of Members on 31st March, 19..."

9. The Chairman to declare the proceedings at an end.

**The Compilation of Minutes**

The Companies Act, 1948, Sect. 145 (1) enacts that "every company shall cause minutes of all proceedings of general meetings, all proceedings at meetings of its directors and, where there are managers, all proceedings at meetings of its managers to be entered in books kept for that purpose." There is now a default fine for failure to keep minutes.
Minutes may be defined as the written record of the proceedings, business transacted, and decisions arrived at, by a meeting of the directors or shareholders of a company. The important duty of compiling minutes devolves upon the secretary, who is responsible to his board for causing a true and correct record of proceedings of meetings to be made.

Minutes when signed by the chairman become the permanent and official record of the proceedings of meetings; accordingly great care is necessary when writing up the minutes to observe that a full, true, and accurate record of the proceedings is made.

For the guidance of the examinee and potential secretary, the main essentials in the compilation of minutes are generalized below.

**Main Essentials**

1. The minutes of each meeting should commence by stating the nature of the meeting, for example, "Meeting of Directors," "Second Annual General Meeting," the day, date, place, and hour of the meeting, followed by the names of the chairman, directors, and others present, and in the case of general meetings, should state the number of the shareholders present.

2. Only the actual business transacted and the decisions arrived at should be recorded. The secretary should provide himself with a "Minutes Note Book," for use at the meeting to make notes of the proceedings, and he will write up the minutes from these notes in conjunction with the notes made by the chairman on the agenda paper. The agenda is usually so prepared that by the alteration of a few words and writing the whole in the past tense the agenda will form the minutes. Before being written up in the minute book, the secretary should make draft minutes to be presented to the chairman for his approval. This is advisable to obviate the necessity for making alterations should any
matter be incorrectly minuted. Minutes should be written up as soon as possible after the meeting when the secretary's recollection of what occurred at the meeting is clear to supplement and amplify his notes.

3. Minutes should be written in brief but comprehensive plain language, capable of but one interpretation, and fully explaining the matter in hand. A short explanation should precede the recorded conclusions if this is necessary for the full and complete understanding of the proceedings. Minutes are sometimes classified as (1) Minutes of Narration, i.e. explanations leading to decisions or statements of matters discussed, and (2) Minutes of Decisions, i.e. the formal resolutions passed at the meeting. Minutes should always be in the affirmative.

Minutes are not reports of the proceedings. A report would give a verbatim record of the proceedings, and would include speeches, arguments advanced and replies thereto. It is not the purpose of writing minutes to have a report of the whole proceedings, but merely to record the business transacted and decisions arrived at by the meeting, with such summarized narrations of the proceedings as are necessary for the clear understanding of the transactions and decisions to make them intelligible to a person unconnected with the company's business, e.g. a Court Judge.

4. No partiality must be attempted in writing minutes. Arguments advanced on either side should be ignored.

5. The inclusion of the names of proposers and seconders of propositions is optional, and the names of those persons who vote against, or abstain from voting, on any proposal should not be included save in exceptional circumstances, for example, to show that a director abstained from voting on a contract in which he was personally interested.

6. When a resolution is required to be passed by a
given majority, for example, in the case of a special or extraordinary resolution, the minutes should record the fact that the chairman declared the resolution carried by the requisite majority. A note should be made of the number "for" and "against" propositions put to the vote, although Sect. 141 (3) of the Companies Act, 1948, enacts "At any meeting at which an extraordinary resolution or a special resolution is submitted to be passed, a declaration of the chairman that the resolution is carried shall, unless a poll is demanded, be conclusive evidence of the fact without proof of the number or proportion of the votes recorded in favour of or against the resolution."

**Indexing of Minutes**

In order to trace any particular decision or record of the proceedings concerning any matter, it is essential that the minutes should be kept well indexed. Two methods of indexing applicable are—

1. To number the minutes to correspond with the items on the agenda. Reference to the minutes is made by consulting the agenda file to find the date of the meeting at which the particular matter was put down for discussion, and then to turn up the minutes for that meeting.

2. The minutes could be numbered consecutively throughout the minute book, or the pages may be numbered, and an alphabetical index written up. The index should, of course, be confined to special items; and routine matter common to every meeting, such as "Signing minutes of the previous meeting," "Financial report," "Share transfers," etc., need not be indexed.

Separate minute books are kept for directors' meetings and general meetings of shareholders. A separate minute book should be used to record the proceedings of meetings of a standing or permanent committee.
Loose-leaf Minute Books

As loose-leaf books have come rapidly into favour during the past few years, the legislature has now decided, in Sect. 436 of the Companies Act, 1948, that, subject to adequate precautions being taken for "guarding against falsification and facilitating its discovery," loose-leaf minute books may be used. It should be the rule to lock the loose-leaf binder securely to prevent unauthorized individuals from tampering with the minutes. The loose leaves should be kept under lock and key, and only the secretary and his immediate assistants should be allowed access thereto. If loose-leaf minutes are in use, it is possible for each year's minutes to be kept together in one book, and agenda and notice convening each meeting can be interleaved with the minutes for that meeting, thus preserving complete documentary evidence of every meeting.

Signing of Minutes

Sect. 145 (2) of the Companies Act, 1948, enacts that "Any such minute if purporting to be signed by the chairman of the meeting at which the proceedings were had, or by the chairman of the next succeeding meeting, shall be evidence of the proceedings."

Minutes are not required to be "confirmed" at the next meeting, or confirmed in any other manner. All that is required by the Act is that minutes should be signed either by the chairman of the meeting to which they relate, or by the chairman of the next succeeding meeting, whether he was or was not chairman of the previous meeting. Although it is the usual practice for the minutes to be read and signed at the next meeting, the secretary would be quite in order if he had the minutes signed at any time after the meeting to which they relate by the chairman of that meeting. It will be observed that the Act does not even require the minutes to be read over to the meeting prior to
the chairman signing them, but it is usual for the chairman or secretary to read out the minutes in order that those present who were also present at the previous meeting may be assured that the minutes when signed are a true and correct record of the proceedings at the previous meeting. For these reasons the use of the expression "confirmation of minutes" should be avoided. The acts and proceedings at the previous meeting do not require to be confirmed in any way. If they were within the scope of that meeting they would be valid and enforceable by the very fact that they were passed at that meeting without the necessity for any confirmation, and for that matter, without the necessity even for a written record. What is commonly known as "confirmation" is nothing more nor less than the "verification" of the written record as correct.

Minutes of general meetings of shareholders are usually read and signed at the meeting of directors next following.

Alterations of Minutes

Generally speaking, once the minutes are written up they cannot be altered, but if when minutes are being read to the meeting, it is found that there are trivial mistakes in the minutes, these should be rectified and initialed by the chairman. If the mistake is of a more serious nature, such as a material misdescription or incomplete description of the business transacted or decisions arrived at, the minutes should be ruled out, but not obliterated, so that the portion intended to be altered can be seen clearly afterwards as evidence of the reason for the alteration. The correct record should then be written in and initialed at the beginning and end by the chairman. It is submitted that this procedure is sufficient of itself, but to place the validity of the alteration absolutely beyond all doubt, the minutes of the meeting at which the alteration was
made should record the fact that the alteration was made before the minutes were signed, and should state clearly the nature of the alteration and the reason therefor.

This procedure is permissible only where there is a misdescription or omission, and it cannot be adopted if the meeting wishes to rescind any part of the previous decisions and proceedings. To effect this a formal resolution must be passed to rescind the former decisions or conclusions, i.e. there must be clear evidence that the meeting wishes to nullify its previous acts and decisions pertaining to a particular matter. To endeavour to carry out the rescission in any other manner (for example, by striking out the minute) would be most dangerously irregular (cf. Cawley & Co. (1889)).

Such a rescission is not always possible. Events may have taken place in consequence of, and in pursuance of, the decision of the meeting. If this is so, the company's position regarding these matters must be carefully considered; each case would depend upon its own particular circumstances, and no general rules can be laid down.

Minutes as Evidence

Minutes are not conclusive, but are only prima facie evidence of the proceedings. Sect. 145 (3) enacts that "Where minutes have been made in accordance with the provisions of this section of the proceedings at any general meeting of the company or meeting of directors or managers then, until the contrary is proved, the meeting shall be deemed to have been duly held and convened, and all proceedings had thereat to have been duly had, and all appointments of directors, managers, or liquidators, shall be deemed to be valid."

Such evidence as may be available is admissible to prove omissions from, or misstatements in, the minutes, but the burden of proof lies upon the person seeking to
question the minutes as recorded, and much will depend upon his relations with the company and the circumstances giving rise to his disputing the evidence afforded by the minutes.

If the minutes set out the terms of a contract requiring by statute to be evidenced by a note or memorandum in writing signed by the party to be charged, then, in the absence of any other note or memorandum of the contract, the signature of the chairman to the minutes is sufficient to satisfy the statute (*Jones v. Victoria Graving Dock* (1877)).

**Failure to Keep Minutes**

As has been noted above, Sect. 145 now provides a penalty for failure to keep minutes. But even without this new provision the consequence of failing to preserve an official record of the proceedings at meetings is of itself a sufficient penalty, and any company which does not keep proper minutes would be severely handicapped in the conduct of business, not to mention the difficult position in which the company would find itself if any of its proceedings were called into question, or were required to be proved in a court of law.

Since the old Sect. 120 (1) provided that every company shall keep minutes, and Sect. 121 entitled members to inspect and to demand copies of minutes of general meetings and imposed penalties for non-compliance, a company which neglected to keep minutes of general meetings would have been unable to comply with Sect. 121, and would thereby have incurred the prescribed penalties. The relative Sections are now 145 and 146.

Table A, Clause 86, regarding the obligation to keep minutes, should be noted.

**Inspection of Minute Books**

Notwithstanding the dictum of Lord Esher in *Cawley*
& Co. (1889), that "Minutes of board meetings are kept in order that shareholders may know exactly what their directors have been doing, why it was done, and when it was done," it is not the practice to permit shareholders to inspect the minute book of directors' meetings.

The only way that members can acquire access to the directors' minute book is when such minute book may be inspected and reported upon by inspectors appointed by the Board of Trade to investigate the affairs of the company under the extensive provisions of Sects. 164–175 of the Companies Act, 1948. Regarding the rights of an auditor to inspect the directors' minute book under the powers conferred upon him by Sect. 162 (3) of the Companies Act, 1948, in a joint opinion of eminent counsel obtained by the Institute of Chartered Accountants, it was considered that the words "Books of the Company," to which auditors have access under Sect. 113 (1) of the 1908 Act (now Sect. 162 (3) of the 1948 Act), include, *inter alia*, all minute books.

The position concerning inspection of minutes of meetings of shareholders is different.

Sect. 146 of the Companies Act, 1948, provides that—

(1) The books containing the minutes of proceedings of any general meeting of a company held on or after the first day of November, nineteen hundred and twenty-nine, shall be kept at the registered office of the company, and shall during business hours (subject to such reasonable restrictions as the company may by its articles or in general meeting impose, so that not less than two hours in each day be allowed for inspection) be open to the inspection of any member without charge.

(2) Any member shall be entitled to be furnished within seven days after he has made a request in that behalf to the company with a copy of any such minutes as aforesaid at a charge not exceeding sixpence for every hundred words.

(3) If any inspection required under this section is refused or if any copy required under this section is not sent within
the proper time, the company and every officer of the company who is in default shall be liable in respect of each offence to a fine not exceeding two pounds and further to a default fine of two pounds.

(4) In the case of any such refusal or default, the court may by order compel an immediate inspection of the books in respect of all proceedings of general meetings or direct that the copies shall be sent to the persons requiring them.

Specimen Minutes

Specimen Minutes of First Board Meeting

THE EXEMPLARY COMPANY, LIMITED

Minutes of First Meeting of Directors,

held at the Registered Office of the Company on Monday, 9th day of January, 19..., at 10 a.m.

Present: Mr. B. Black, Chairman.
Mr. Charles Black, Managing Director.
Mr. Arthur Black, Works Manager.
Mr. J. Green, Director.
Mr. W. Rothwell, Mr. W. White
G. Smart, Secretary. Mr. Deeds, Solicitor.

1. Chairman of Meeting. By general desire Mr. B. Black occupied the chair.

2. Chairman of Company. It was unanimously resolved "That Mr. B. Black be, and he is hereby, elected Chairman of the Company and of the Board of Directors."

3. Certificate of Incorporation. Mr. Deeds, the Solicitor, produced the Certificate of Incorporation of the Company, No. 66648, dated 12th December, 19...

4. Appointment of Managing Director. It was resolved "That Mr. Charles Black be, and he is hereby, appointed Managing Director of the Company for a period of five years at a salary at the rate of £1,500 (One thousand five hundred pounds) per annum, payable quarterly, such terms to be embodied in an agreement to be prepared by the Company's Solicitor." (In compliance with clause 110 of the Company's Articles, Mr. Charles Black, being an interested person, refrained from voting on this motion.)

5. Appointment of Secretary. It was resolved "That Mr. G. Smart be, and he is hereby, appointed Secretary of the Company at a salary at the rate of £600 (Six hundred pounds) per annum, payable monthly, the appointment to be terminable by three months' notice by either party, and that the Company's Solicitor be, and he is hereby, instructed to prepare an agreement to this effect."
6. Appointment of Auditor. It was resolved "That Mr. F. Figures, Chartered Accountant, be, and he is hereby, appointed auditor to the Company at a fee of £... for the current year."

7. Appointment of Bankers, Drawing and Endorsing of Cheques, etc. It was resolved—
"That the Midland Bank, Ltd., be, and is hereby, appointed Bankers to the Company."
"That the said Bank is hereby authorized to debit the Company's account with all cheques and/or other orders drawn upon such account, when signed for and on behalf of the Company by any two Directors and countersigned by the Secretary."
"That Bills of Exchange, and other negotiable instruments, shall be drawn, or accepted, for and on behalf of the Company, by any two Directors and countersigned by the Secretary."
"That all cheques and other instruments requiring the endorsement of the Company may be endorsed for and on behalf of the Company, by any one Director or the Secretary."

The Secretary was instructed to forward to the Bank a sealed copy of this Resolution signed by the Chairman and Secretary, together with specimen signatures of the Directors and the Secretary, and a copy of the Memorandum and Articles of Association of the Company.

8. Adoption of Contract Appointing Works Manager. It was resolved, nem. con. "That the provisional agreement dated 1st December, 19... made between Mr. Arthur Black of the one part, and Mr. B. Black (as trustee for the Company) of the other part, appointing Mr. A. Black as Works Manager for a period of five years at a salary at the rate of £1,000 (One thousand pounds) per annum, be, and is hereby adopted, and that the Solicitor be, and he is hereby, instructed to prepare a contract between Mr. A. Black and the Company embodying the terms of the said provisional agreement."

9. Seal. The Secretary produced the Seal, and it was resolved—
"That this seal (of which an impression is affixed to these Minutes) be, and is hereby, adopted as the official signature of the Company."
"That a key of No. 1 lock of the Seal be held by the Chairman, and a key of No. 2 lock be held by the Secretary, and that the duplicate keys be deposited with the Company's Bankers."

10. Issue of Prospectus. The Draft Prospectus was produced and read to the meeting by Mr. Deeds, who assured the Board that all the statutory provisions relating to the Prospectus had been fully observed, and after some discussion It was resolved "That the Prospectus be, and is hereby, approved and adopted, that the Prospectus be dated 9th January, 19... be signed by all the Directors as required by the Companies Act,
1948, and Mr. Deeds be, and he is hereby, instructed to file one signed copy with the Registrar of Companies."

A draft agreement with the All White Trust Corporation Ltd. for publication of the prospectus, underwriting, and cognate matters, was produced. It was resolved "That the draft agreement with the All White Trust Corporation Ltd. be approved, and that Mr. Deeds be, and he is hereby, instructed to prepare this for signature.

11. Date of Next Meeting. The next Meeting of the Board was fixed for Wednesday, 18th January, 19... at 12 noon.

Statutory Meeting

THE EXEMPLARY COMPANY, LIMITED

MINUTES OF STATUTORY MEETING

held at the Registered Office on Thursday, 23rd July, 19—,
at 3 p.m.

Chairman : Mr. B. Black.
Directors : Mr. Charles Black.

Mr. J. Green.
Mr. W. Rothwell.

Secretary : Mr. G. Smart.

And 42 shareholders.

1. Notice of Meeting. The Secretary read the notice, dated 6th July, 19..., convening the meeting.

2. Chairman's Speech. In opening the meeting the Chairman referred to the circumstances leading to the incorporation of the Company, and briefly reviewed the position and progress to date, referring those present to the Statutory Report as printed and circulated, for particulars of the financial progress recorded. The Chairman reminded those present that in accordance with the requirements of Sect. 130 (6) of the Companies Act, 1948, a list of the shareholders of the Company was open to the inspection of any shareholder during the continuance of the meeting.

3. Discussion and Questions on the Report. The Chairman concluded his speech by inviting shareholders' discussion and questions on the Report, and on matters pertaining to the formation of the Company.

The questions raised were dealt with to the satisfaction of the meeting.

4. Modification of Purchase Agreement. The Chairman read a letter from Messrs. Slow & Sure, Solicitors for Messrs. Arthur Black and J. Green, who are selling their business to the Company, stating that their clients desired to retain ownership of 5000 square yards of land fronting to Swan Lane, Bathtown, and offered in exchange 10,000 square yards of land adjoining the railway sidings leading into the factory. The chairman explained the advantages of this proposal
from the point of view of the company, and on the proposition being put to the meeting *It was resolved* that the purchase agreement dated 16th January, 19..., between Messrs. Arthur Black and J. Green, of the one part and the Company of the other part be modified so that the Company shall surrender to the vendors a strip of land containing 5000 square yards and having a frontage of 100 yards to Swan Lane, Bathtown, in exchange for a plot of land containing 10,000 square yards adjoining the railway sidings leading into the factory.

5. On the conclusion of the business of the meeting, a hearty vote of thanks to the Chairman for presiding was carried with acclamation.

**Annual General Meeting**

**THE EXEMPLARY COMPANY, LIMITED**

**MINUTES OF THE SECOND ANNUAL GENERAL MEETING,**

held at the Common Hall, Victoria Street, London, S.W.1, on Thursday, 26th April, 19..., at 12 noon.

*Chairman*: Mr. B. Black.

*Directors*: Mr. C. Black, Managing Director.

Mr. A. Black.

Mr. W. Rothwell.

Mr. J. Green.

Mr. W. White.

*Secretary*: Mr. G. Smart.

*Auditor*: Mr. F. Figures.

And 33 shareholders.

31. *Notice of Meeting.* The Secretary read the notice dated 2nd April, 19..., and convening the meeting.

32. *Directors’ Report.* With the consent of the meeting, the Directors’ Report and Accounts as printed and circulated were taken as read.

33. *Auditor’s Report.* Mr. F. Figures, auditor of the Company, read his report upon the Company’s Accounts and Balance Sheet.

34. *Chairman’s Address.* The Chairman addressed the meeting upon the Company’s present satisfactory position and good prospects, and invited questions on the Report and accounts as circulated to the shareholders.

The questions raised were dealt with by the Chairman to the satisfaction of the querists.

35. *Adoption of Report and Accounts.* On the motion of the Chairman, seconded by Mr. James Green, *it was resolved, nem. con.* “That the Report and Accounts for the year ended 31st December, 19...—as audited and certified by the Company’s auditor, and now submitted to this meeting, be, and are hereby, approved and adopted.”
36. **Auditor.** On the motion of Mr. A. Harris, seconded by Mr. J. Slater, *it was resolved* "That Mr. F. Figures, Chartered Accountant, 99 Lime Street, E.C.1, having agreed to continue in office as Auditor for a further year, his fee be fixed at £..."

37. **Re-election of Directors.** On the motion of Mr. Brown, seconded by Mr. J. Twist, *it was resolved* "That Mr. William White and Mr. J. Rothwell, the Directors retiring by rotation, and both being eligible for re-election, be, and they are hereby, re-elected Directors of the Company."

38. **Dividend.** It was proposed by the Chairman, and seconded by Mr. A. Cowley and unanimously *resolved*, "That the Dividend recommended by the Directors, viz., 10 per cent on the Ordinary Shares for the year ended 31st December, 19..., be, and is hereby, declared, and that the said dividend be paid on 1st May, 19..., to those shareholders whose names appear on the Register of Members on the 31st March, 19...

39. **Vote of Thanks.** The Chairman having declared the proceedings at an end, the meeting terminated with a hearty vote of thanks to the Chairman and the other members of the Board, which was acknowledged by the Chairman in appropriate terms.

**Board Meeting**

THE EXEMPLARY COMPANY, LIMITED

MINUTES OF BOARD MEETING HELD ON 23RD MAY, 19...

at 10 a.m.

*Chairman:* Mr. B. Black.

*Directors:* Mr. Charles Black. Mr. J. Green.

Mr. W. Rothwell.

*Secretary:* Mr. G. Smart.

In attendance: Mr. J. Brown.

31. **Minutes of Previous Meeting.** The Minutes of the Board Meeting held on 16th May, 19..., were read and signed by the Chairman as being a correct record of the proceedings.

32. **Representation in Birmingham.** Mr. J. Brown reported that his negotiations with Messrs. Jones & Smith, of Birmingham, respecting their appointment as the Company's sole representatives in Birmingham, had been successful, and *it was resolved*—

"That Messrs. Jones & Smith, of Lozelles, Birmingham, be, and are hereby, appointed as the Company's sole representatives in Birmingham subject to the satisfactory completion of a formal agreement as stipulated for by Mr. J. Brown, to be prepared by the Company's Solicitor, incorporating the following terms—

"(1) The appointment to be for a period of five years.

"(2) An annual agency expense allowance of £250 (Two hundred and fifty pounds) to be paid."
"(3) Commission to be paid on the value of all orders introduced by Messrs. Jones & Smith, according to the following scale of rates, calculated on the turnover for the year ended 31st March, 19... and each succeeding year during the continuance of the agency—

"On the first £5,000 at the rate of 2½ per cent.
"On the next £10,000, at the rate of 5 per cent.
"On all orders in excess of £15,000, at the rate of 7½ per cent.

"(4) The Company may determine the agency at the end of two years if it is considered by the Company to be desirable to do so."

33. Financial Statement. The Bank Pass Book was produced, showing a balance to the credit of the Company amounting to £2,248 11s. 7d., together with a Reconciliation Statement agreeing this balance with the balance shown by the Cash Book.

A statement of accounts owing, and due for payment, amounting to £777 7s. 6d., was produced and examined, and it was resolved "That cheques in discharge of the amounts so due be drawn and signed."

34. Share Transfers. It was resolved "That Transfer Deeds Nos. 151 to 176 inclusive be passed and the Common Seal affixed to the new Certificates Nos. 5151 to 5176 inclusive, and that the names of the Transferees be forthwith entered in the Register of Members."

The Seal was duly affixed to the new Certificates as authorized, the affixing being attested byMessrs. C. Black and W. Rothwell, two of the Directors present, the Certificates being countersigned by the Secretary.

35. Sealing of Contract with Abels, Ltd. The contract (as approved by the Company's Solicitor) for reconstruction work at the London Factory was produced and read to the meeting, and it was resolved—

"That the contract between the Company of the one part and Abels, Ltd., of the other part for certain reconstruction work at the London Factory as detailed in the specification dated 2nd April, 19..., signed by the Company's architect (a copy of which specification is annexed to the contract) be, and is hereby, approved and adopted, and that the said contract be dated 23rd May, 19..., and the Seal affixed thereto."

The Seal was duly affixed, and attested by Messrs. B. Black and W. Rothwell, two of the Directors present, and the Secretary.

36. Date of Next Meeting. The date of the next meeting was fixed for Wednesday, 30th May, 19..., at 3 p.m.

This concluded the business of the meeting.
Specimen Minutes of Extraordinary General Meeting
THE EXEMPLARY COMPANY, LIMITED

Minutes of Extraordinary General Meeting
held at Common Hall, Victoria Street, S.W.1, on Thursday,
23rd July, 19..., at 3 p.m.

Chairman: Mr. B. Black.
Secretary: Mr. G. Smart, and Mr. H. Willing, Assistant Secretary; and 232 shareholders.

1. Notice Convening Meeting. The Secretary read the notice dated 30th June, 19..., convening the meeting.

2. Chairman's Address. The Chairman addressed the meeting, referring to the losses made by the Company owing to the present financial policy of the Government, and recommended that the Share Capital be reduced.

After briefly explaining the object and method of carrying out the Reduction of Capital as recommended, the Chairman moved—

"That the Ordinary Share Capital of the Company be reduced from £100,000 to £50,000 by writing down each fully-paid One Pound Ordinary Share to the value of Ten Shillings fully-paid, and that a Petition be made to the Court for an order confirming this reduction."

The motion was seconded by Mr. Pleasant, a shareholder.

Several shareholders vigorously protested against the motion, and after the discussion had lasted some time, it was moved and seconded "That the question be now put." The motion of closure was immediately put to the vote, and declared by the Chairman to be carried, whereupon the original motion was put to the vote, and on a show of hands being taken the Chairman declared the resolution carried, whereupon Messrs. F. Howard, W. McGlue, and W. Byron demanded that a Poll be taken on the motion. The Chairman directed that the Poll be taken forthwith.

Messrs. W. Hurst and J. Robinson were elected scrutineers.

There were present, in person, 232 shareholders, holding in the aggregate 60,000 shares; and 30 shareholders, holding in the aggregate 20,000 shares, were represented by proxy. The result of Polling was as follows—

For the motion. . . . . . 61,000
Against . . . . . . 18,000
Votes not polled . . . . 1,000

80,000

The Chairman accordingly declared the Resolution carried by the requisite three-fourths majority, and declared the proceedings at an end.
CHAPTER XV
RESOLUTIONS

As is generally well known, the method of transacting business at any meeting is to submit to those present for their considered decision, definite proposals or propositions appertaining to the particular matters of business in hand.

Each proposition before the meeting is discussed and debated, and finally put to the vote, whereupon, if it is carried by the requisite majority, it becomes the resolution of the meeting on that particular matter—it is the expression of the will of the majority—and, provided it conforms with law, is binding on all members.

Propositions, Motions, and Resolutions

These terms are often regarded as synonymous, and are consequently used indiscriminately when procedure at meetings is being discussed. To use the terms correctly, a proposition is a proposal or suggestion submitted for discussion, a motion is a proposition to be put to the vote, and it becomes a resolution when it is properly carried by the requisite majority, i.e. the decision or expression of opinion of the meeting. Strictly, the term resolution should only be used to refer to a motion passed at a meeting.

Kinds of Resolutions

There are four kinds of resolutions—

I. Ordinary

Those required to be passed by a simple or bare majority only of those present and voting.