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STYLES in no-par stock laws bid fair to become as distinctive as those of women's dresses or of men's clothing. Figuratively speaking, the Delaware style is smart, chic, and daring; that of Wisconsin is old-fashioned, high-necked, and conservative.

Translated into appropriate language, the Delaware law might be said to permit anything which finance, high or low, may see fit to undertake. The Wisconsin law, with slight qualification, sanctions nothing but practices approved by sound economic doctrine.

It is axiomatic of economic theory that dividends may not be paid out of capital. This proscription has been written into the statutes of many states. The principle has served as a basis for judicial decisions on various occasions. The principle has been respected by Wisconsin. It has been ignored by Delaware in framing its most recent law governing the issuance by corporations of shares without par value.

The Delaware law permits both preferred and common shares to be issued without par value. It permits the consideration received for shares to be apportioned between capital and surplus. Dividends may be paid out of any surplus, and surplus is defined as the excess of assets over liabilities and capital stock. Depletion, under certain circumstances, need not be taken into consideration in determining net profits available for dividends. These are the salient features of the law.

The contrast with the new Wisconsin law (July, 1927) is marked. "Any corporation . . . may issue shares of stock (other than stock preferred as to dividends or preferred as to its distributive share of the assets of the corporation or subject to redemption at a fixed price) without any nominal or par value."

"The amount of all moneys and the money value of any services or property paid for shares without par value as fixed at the time of the issuance of the shares therefor by the organizers, the directors, or the stockholders, whichever shall have fixed the price for the issuance thereof, shall constitute the capital applicable to such shares, which capital may not be diminished by the payment of dividends."

"No dividend shall be paid by any corporation until at least fifty per cent. of the authorized capital stock has been fully paid in, and then only out of net profits properly applicable thereto, and which shall not in any way impair or diminish the capital . . . But any corporation which has invested net earnings or income in permanent additions to its property, or whose property shall have increased in value, may declare a dividend either in money or in stock to the extent of the net earnings or income so invested or of the said increase in the value of its property; but the total amount of such dividend shall not exceed the actual cash value of the assets owned by the corporation in excess of its total liabilities, including its capital stock."

Careful reading of the quotations will show them to be highly satisfactory from the point of view of sound procedure, except with respect to permitting the declaration of cash dividends based on an increase in the value of property. The two sections relating to dividends conflict. First, it is stated that dividends may be paid only out of net profits. Then they are permitted out of an increase in the value of property, suggesting that the phraseology of the law may have been the subject of late conference and that the second section was compromised without due regard for what had preceded it. At any rate it seems apparent that it was not the intent of the liberal element, which attempted to break through the crust of conservatism, to permit the arbitary writing up of property values for dividend purposes, inasmuch as the new amount assigned to the property may not exceed the actual cash value. And the task of fixing actual cash values is not an easy one.

Outside of the foregoing criticism there appears little in the new Wisconsin law to which one may object. On the other hand there is much to commend. In addition to the points mentioned there are several logical provisions relating to shares without par value. One of these provisions has to do with cases in which shares of stock constitute the consideration received for no-par shares issued. In such cases, if the shares received represent an existing business then having a surplus, such surplus may be retained as a surplus available for the payment of dividends. Stated differently, the amount of the consideration may be divided into two parts corresponding to the capital and surplus of the company whose shares were received, and the two parts credited to the capital and surplus, respectively, of the corporation issuing the no-par shares. Obviously, this provision is intended to apply to cases of merger and consolidation and not to the acquisition of miscellaneous shares carried as investments.

Another intelligent provision relates to no-par shares sold by a corporation which has accumulated a surplus. Hasty reading may convey the impression that the treatment authorized is in conflict with economic theory which prevents a division of the consideration received; part of the consideration being credited to surplus. While this may be true in a sense, the justice in the procedure should be apparent upon reading the quotation from the statute. The law recognizes the possibility of selling an interest in surplus as well as in capital and provides as follows: "Or in case said shares without par value are sold by a corporation which has accumulated a surplus, such portion of the price as shall bear the same proportion to the total price as the surplus bears to the total of capital and surplus of the corporation, may by resolution of the board of directors adopted prior to the sale of such stock be treated as surplus available for dividends."

Here is a provision which literally sanctions the payment of dividends out of a part of the consideration received for capital stock. But the effect is to equalize the interests of old and new shareholders in both capital and surplus and the provision is equitable if not strictly orthodox according to commonly accepted principles.

One further point in the Wisconsin law is worthy of mention. It relates to stock dividends and no doubt will be comforting to accountants who feel that the declaration of a stock dividend in no-par shares should be accompanied by a transfer from surplus to capital. "In the event of the payment of a stock dividend in stock without par value, the resolution providing for such dividend shall specify the amount of the surplus distributed by such dividend and such amount shall become capital." This seems to take for granted that a stock dividend in the form of no-par shares affects surplus. Such assumption is scarcely warranted if one takes into account the nature of no-par shares. The characteristic of no-par shares which distinguishes them from par shares is their acknowledged share interest in surplus. A stock dividend merely increases the number of shares outstanding and decreases the amount of interest in capital and surplus per share. It cannot be conceded that a stock dividend of no-par shares justifies a transfer from surplus to capital, thus impounding some part of the surplus. It would be possible, and perhaps not inconsistent, to declare both a stock dividend and a cash dividend at the same time, provided a corporation had a surplus which would justify the cash dividend. Likewise, a stock dividend could be declared without any surplus.

The criticisms herein are not intended to discredit in any way the Wisconsin statutes relating to shares without par value. That law is believed to be as good as any which appears on the statute books in this country. Probably it is better on important points than most of the statutes. It will be interesting to watch the progress of no-par legislation. And it remains to be seen whether new laws and any amendments to existing laws will follow the style of Delaware, or of Wisconsin, or of Ohio which at first glance seems more like Delaware, but upon careful analysis proves in effect to be more like Wisconsin.

The Dawes Plan

MANY problems of considerable magnitude confronted the nations of the world at the close of the Great War in their efforts to regain normality and in arranging the settlement of various matters. One by one these were disposed of as the years went by. Probably the two questions which will be with us the longest for discussion and debate are those of interallied debts and Germany's reparation payments. The solution to both of these is of vital concern to the welfare of the United States.

With the adoption of the Dawes plan in 1924, substantial progress had been made with respect to the reparation debt. Certain matters were agreed upon and a tentative program mapped out for the annual payments Germany was to make. At that time, and until the present day, there has been some doubt as to the efficacy of the plan. One school of thought, which has always had a more or less popular following, is of the belief that it is economically impossible for the debt payments to be made and, therefore, favors cancellation either in whole or in part. So far, Germany has been able to meet its annual payments of increasing amounts each year, as specified under the plan, but a crisis is expected in 1928 when the maximum of $625,000,000 a year first goes into effect.

Mr. George P. Auld, of our New York Broad Street office, has written a book recently entitled "The Dawes Plan and the New Economics" (Doubleday, Page & Company) which presents a practical view of the situation and takes exception to the thought expressed by many theoretical economists. Mr. Auld served during the war as chief accounting officer of the United States Navy. In 1919 he was attached to the American Commission to Negotiate Peace as an assistant financial adviser. From 1920 to 1924 he was Accountant General of the Reparation Commission and in the latter year he assisted Mr. Owen D. Young in installing the Dawes plan. He has been associated with Haskins & Sells since March, 1924.

Just as the economists who thought a war of the magnitude of the late war impossible were wrong, so Mr. Auld believes that those economists who predict that the Dawes plan will break down because of Germany's incapacity to pay and who believe that the mechanics of exchange will prevent the transfer of the reparation payments to the creditor nations, also are mistaken. As for the safety of American foreign loans, Mr. Auld states further that there is no need for worry, so long as each loan is sound in itself. "The Dawes Plan and the New Economics" expresses an optimistic