December 1936

Masthead Volume 43, Issue 1

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DIVIDENDS FROM WASTING ASSETS CORPORATIONS

"Logic supplies a probability, but it is not remorseless."\(^1\) In no field of the law is the statement more true than in corporation finance. Particularly as to corporate dividends, business practice and accounting methods frequently displace logical deductions from statutory language. Few topics are so commonly a matter between directors and their counsel as the legality of a suggested dividend; yet rarely is the profession able to furnish a definite opinion.\(^2\) The problem becomes even more complicated when the charter provides for participating preferred stock or non-cumulative preferred, for income bonds or hybrid securities of a similar sort.\(^3\) Indeed, the

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\(^1\) Williston, Some Modern Tendencies in the Law (1929) 157.


\(^3\) Note (1936) 45 Yale L. J. 907.