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### LEGAL CHARACTERISTICS AND CONSEQUENCES OF VOTING TRUSTS

J. GORDON GOSE

Quite frequently it becomes desirable for corporate stockholders to combine the voting power of their stock for a common purpose. The device usually employed to achieve that objective is the voting trust. Under the conventional voting trust arrangement, two or more<sup>1</sup> stockholders transfer the legal title to their stock to a common trustee, who causes new certificates to be issued in his name. The voting trustee then issues voting trust certificates to the beneficial owners of the stock. The terms under which the stock is held in trust are defined by a written voting trust agreement.

The trust device was doubtless arrived at by the original draftsmen of voting trusts by a process of elimination. It is, of course, a fundamental concept of corporate law that voting power is attached to the stock itself. That power can, however, be exercised through an agent under present day statutes,<sup>2</sup> and when this is done, both the agent and the arrangement are commonly known by the name of proxy. Inasmuch as a proxy is simply an agency, it is governed by the general law of agency. Under that law, all agencies are revocable at will by the principal, unless the agent has some interest in the subject matter of the agency. Also, death or insanity of either the principal or the agent automatically ends the relationship. This common law rule that no agency is irrevocable unless "coupled with an interest" has been recognized by corporation statutes covering voting by proxy.<sup>3</sup>

The impermanency of the proxy relationship, by reason of these principles, rendered it unsuitable as a device for controlling voting power for a fixed future period. In addition, under the usual proxy ar-

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<sup>1</sup> Some statutes, such as that of Delaware, permit the voting trust to be initiated by a transfer by one stockholder. Delaware Corporation Law, § 18. However, the trust so created does not become irrevocable until at least one more stockholder has joined. *H. M. Bylesby & Co. v. Doriot*, Del. Ch. 12 A. (2d) 603 (1940).

<sup>2</sup> At common law proxies were not permissible unless specially authorized by charter or by-law. 5 FLETCHER, CYCLOPEDIA CORPORATIONS (perm. ed.) § 2050.

<sup>3</sup> See REM. REV. STAT. §§ 3803-28 (5).

rangement, the stock at all times stands in the name of the principal, and if all other objections were met, a sale of the stock to a bona fide purchaser would free the stock from the burden of the proxy.<sup>4</sup>

Confronted by these objections to the use of proxies, stockholders desiring to make a firm engagement to have their stock voted as a single block for a definite period turned naturally to the trust device. Other alternative courses doubtless were considered, but all of these were either like the proxy arrangement, subject to unsatisfactory legal restrictions, or, at best, appeared to rest on unsettled legal foundations. In contrast, the law of trusts contained a body of well settled principles which, it was believed, would meet all legal requirements and be satisfactory from a practical standpoint.

The reception which was accorded to voting trusts in this early period certainly justified the use of the trust method as compared to any alternate device which might have been suggested. It is true that voting trust arrangements were received with a large measure of hostility, despite the fact that they employed a legal status which for other purposes was well-known and was surrounded by an established body of well-settled principles. In all probability had some lesser known device been resorted to, it would have received even less favorable treatment. The fact is that the trust device, despite its early tribulations, ultimately became accepted as to its legality, and it is very doubtful if any other method, short of statutory authorization, would ever have been sustained by the courts.

It is not the purpose of this article to explore again the now settled controversy which once raged over the legality of voting trusts. That subject has been adequately discussed on many occasions,<sup>5</sup> and since the controversy has now ended, there is no occasion to re-examine it further. Rather, the purpose of the present comment is to deal with certain consequential aspects of the voting trust arrangement.

Throughout the controversy over the legality of the voting trust, the courts were largely concerned with fundamental problems of public policy, and little apparently was said or thought about the detailed characteristics and consequences which attend the use of the voting trust. Ultimately, when state legislatures, following the trend of judicial decision, acted to legalize voting trusts, they retained the trust form of the transaction, without giving much attention to details other than those going to the creation of the trust.

In the State of Washington, voting trust agreements received legislative sanction in 1933. Prior to that time, voting trusts had been

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<sup>4</sup> See REM. REV. STAT. § 3803-115, being § 15 of the Uniform Stock Transfer Act.

<sup>5</sup> An excellent review of this subject is Burke, *Voting Trusts Currently Observed* (1940) 24 MINN. L. REV. 347. See also other legal periodical material there cited. The subject is extensively treated in an annotation in 105 A. L. R. 123.

recognized as valid in this state in the absence of statute.<sup>6</sup> Since the adoption of the statute, the Supreme Court of this state has not indicated whether it is still possible to establish a trust independent of the statute. However, the general rule is that the adoption of a statute on the subject of voting trusts fully occupies the field, so that all subsequent voting trusts must conform to the statute.<sup>7</sup> For this reason, and for the further reason that the statute itself furnishes a convenient outline, the remainder of this article will consider the practical aspects of voting trusts by analyzing the provisions of the Washington statute.

#### VOTING TRUSTS ARE TRUE TRUSTS

The Washington statute is Section 3803-29 of REM. REV. STAT. This section is a part of what was known at the time of its adoption as the Uniform Business Corporation Act. It is now properly known as the Model Business Corporation Act.<sup>8</sup> The section consists of seven enumerated subsections.

Subsection 1 reads as follows:

"Two or more shareholders of any domestic corporation may, pursuant to an agreement in writing, transfer their shares to any person or persons or to a corporation having authority to act as trustee for the purpose of vesting in such person or persons, or corporations, as trustee or trustees, all voting or other rights pertaining to such shares for a period of not exceeding ten years, and upon the terms and conditions stated in the agreement."

It should be understood at the outset that a voting trust is a true trust even though the creators are employing the trust device for a special and limited purpose. The statutory language shows this, and it would hardly be necessary to mention this fact if it were not true that some cases have directly cast doubt on this proposition and others have in effect done so. In the former category is an extreme statement in the concurring opinion of Justice Pitney in *Warren v. Pim*,<sup>9</sup> a decision of the Court of Errors and Appeals in New Jersey. It is there said:

"But in truth and in essence, and for all purposes of a court of equity, a voting trust that has for its sole object the permanent separation of the voting power from the substantial ownership of the shares is not a putting of the shares in trust.

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<sup>6</sup> *Clark v. Foster*, 98 Wash. 241, 167 Pac. 908 (1917); *Winsor v. Commonwealth Coal Co.*, 63 Wash. 62, 114 Pac. 908 (1911); *Day v. Hecla Mining Co.*, 126 Wash. 50, 217 Pac. 1 (1923). See also *Gleason v. Earles*, 78 Wash. 491, 139 Pac. 213 (1914).

<sup>7</sup> *Perry v. Missouri-Kansas Pipe Line*, 22 Del. Ch. 33, 191 A. 823 (1937); *In re Morse*, 247 N. Y. 290, 160 N. E. 374 (1928). See also *Davidson v. American Paper Manufacturing Co.*, 188 La. 69, 175 So. 753, 114 A. L. R. 1044 (1937).

<sup>8</sup> This act was finally approved as a Uniform Act by the National Conference on Uniform State Laws in 1928. It has since been adopted in only three states, Washington, Idaho and Louisiana, and has been designated as a model rather than a uniform act. 9 UNIFORM LAWS ANNOTATED 71.

<sup>9</sup> 66 N. J. Eq. 353, 59 A. 773 (1904).

It is a putting of false evidence of share ownership into the hands of the trustee, for the purpose of enabling the trustee to represent himself as a shareholder at the stockholders' meetings, and thereupon be admitted to the election."

While the foregoing is taken from an opinion which is entirely hostile to voting trusts and not in accord with the law today, it and similar statements have doubtless colored judicial thinking down to a much more recent date. Thus, the Supreme Court of New York, in *National Liberty Insurance Company v. Bank of America*,<sup>10</sup> while recognizing the legality of a voting trust, held that a court could not appoint a successor trustee to fill a vacancy in the voting trusteeship. In so doing, it said:

"Equally untenable is the suggestion that the court should treat this as a genuine trust agreement, and under general equity powers designate a trustee to effectuate its purposes. It is not a real trust agreement under which equity exercises such function, but a mere voting trust agreement. A signer of this agreement would no doubt view with astonishment the transmission of his voting rights to a nominee of the court. There was never such intention."

There may, in a particular case and upon general trust principles, be a valid reason for a court to decline to appoint a successor voting trustee,<sup>11</sup> but such a ruling should not be put on the ground that a voting trust agreement is not a "real trust." It would be extremely unfortunate if this view of the status of a "mere voting trust agreement" were to become universally accepted. Such a view results largely from confusing the *purpose* of the parties in entering a certain legal status, with the *legal consequences* which attend entry into that status.<sup>12</sup> The trust device was employed, as we have already seen, because it seemed to be the only method within the framework of existing law which could be used to accomplish a desired purpose. The principles of the law of trusts were well-known, and it must be assumed that in setting up their transaction in trust form, the parties expected the entire arrangement to be governed by the law of trusts.

Furthermore, if the long-settled principles of the law of trusts do not apply to the relationship, there is no other settled body of legal principles which can have any application. In that case, an entirely new body

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<sup>10</sup> 126 Misc. 753, 214 N. Y. S. 643 (1926).

<sup>11</sup> Generally, a trust does not fail for want of a trustee. A proper court may appoint a trustee if the position is vacant and no other method is prescribed by the trust instrument. RESTATEMENT OF TRUSTS § 108. But where the settlor has manifested an intention that the trust shall not continue, unless the person named by him as trustee acts in that capacity, or if the purposes of the trust cannot be carried out by any other person, the trust will fail for lack of a trustee. RESTATEMENT OF TRUSTS § 101(b).

<sup>12</sup> Various types of trusts other than voting trusts have popular names indicative of their purpose, as for example, spendthrift trusts and charitable trusts. The true trust status of these special types of trust is beyond question, and the same should be true of voting trusts.

of principles would have to be developed, compounded perhaps from several different sources. There is certainly no occasion for launching into such an uncharted sea, and happily it is unnecessary to do so, because most courts have recognized that voting trusts are true trusts to be governed by established principles of the law of trusts.

Thus, in *H. M. Byllesby & Co. v. Doriot*,<sup>13</sup> it is said:

"Generally speaking, a voting trust is a trust in the accepted equitable sense and is subject to the principles which regulate the administration of trusts . . ."

This statement was made in connection with an inquiry of the power of the settlor to revoke the voting trust, but similar statements have been made in the cases cited in connection with a wide variety of problems involving the application of trust law to voting trusts.<sup>14</sup>

Finally, the statute itself would seem to be entirely clear on the question, since it specifically states that the shares are transferred to be held "as trustee."

#### TWO OR MORE STOCKHOLDERS CAN CREATE A VOTING TRUST

Under Subsection 1 of the statute, the transfer of stock by two or more persons is necessary to the creation of the voting trust. This necessity of having more than one settlor arises from the peculiar purpose of voting trusts. Generally speaking, only a single settlor is required to create a trust. However, one of the special and essential purposes of a voting trust is that the stock of at least two stockholders be combined for voting purposes. Otherwise, there is no point to the creation of a trust for voting purposes. In recognition of this, the statute requires two settlors.

A possible question at once arises as to whether one of the two settlors can also be the trustee. In other words, does the statute contemplate a minimum of three different persons, two settlors and one trustee? There is no positive decision upon this precise point; but under general principles of the law of trusts, there is no real impediment to one party being both a settlor and trustee. It is true that the statute re-

<sup>13</sup> Del. Ch., 12 A.(2d) 603 (1940).

<sup>14</sup>*Brightman v. Bates*, 175 Mass. 105, 55 N. E. 809 (1900) (a voting trust is an active trust); *Chandler v. Bellanca Aircraft Corp.*, 19 Del. Ch. 57, 162 A. 63 (1932) ("It may be accepted as true that a voting trust is a trust in the accepted equitable sense, and is subject to the principles which regulate the administration of trusts"); *Brown v. McLanahan*, U. S. D. C., Md., 58 F. Supp. 345 (1944). (Voting trustees in voting have trust obligations to the holders of voting trust certificates); *Lippard v. Parrish*, 22 Del. Ch. 25, 191 A. 829 (1937) (Voting trustees are removable on trust principles); *Moore v. Bowes*, 8 Cal. (2d) 162, 64 P. (2d) 423 (1937) (Voting trustees removable on trust principles); *Kann v. Rosset*, 307 Ill. App. 153, 30 N. E. (2d) 204 (1940) (Court will not disregard trustee's legal title); *Wool Growers' Service Corporation v. Simcoe Sheep Co.* 18 Wn. (2d) 655, 140 P. (2d) 512 (1943) (Voting trustees are under fiduciary obligations to beneficiaries in voting the stock); *Overfield v. Penroad Corporation*, U. S. D. C., Pa., 42 F. Supp. 586 (1941) (General application of rules of trust law); *Hirschwald v. Erlebacher*, Del. Ch. 29 A. (2d) 798 (1943).

quires each of the two settlors to *transfer* his stock to the trustee. However, the settlor could doubtless accomplish this by surrendering his stock to the corporation, properly endorsed and with a request that the corporation issue a new certificate, covering this stock in his name as trustee. Under general trust law, a settlor may create a trust in which he himself is trustee simply by a declaration of trust.<sup>15</sup> Such a declaration, following by reissuance of the certificate, should constitute a "transfer" within the meaning of the statute."

#### THERE MUST BE A WRITTEN TRUST AGREEMENT

It next appears, on reference to Subsection 1, that the trust arrangement must be covered by an agreement in writing and that the transfer of stock in trust is governed by the "terms and conditions stated in the agreement." It is well recognized that the agreement may contain any provision not contrary to some other term of the statute or to public policy generally.

Thus in *Perry v. Missouri Kansas Pipe Line Co.*,<sup>16</sup> the Delaware Chancery Court said:

"The parties to a voting trust may agree upon what terms they please, so long as the purpose is not one that the law deems to be illegal."

And the Superior Court of Delaware, in *State ex rel. Crowder v. Sperry Corporation*,<sup>17</sup> stated the same principle even more positively:

"Apart from limitations imposed by statute or public policy, parties to trust agreements are at liberty to adopt any provisions either as to substance or mechanics as they may elect."

The foregoing statement was adopted verbatim by the Delaware Chancery Court in *Scott v. Arden Farms Co.*<sup>18</sup>

It is not proposed to discuss in detail in this article the drafting of voting trust agreements. The standard texts have some excellent forms and suggestions for the preparation of voting trust agreements.<sup>19</sup> In the course of this article, mention is made of some specific provisions which may be desirable in voting trust agreements. Also, it should be remembered that, in preparing the voting trust agreement, care should be taken to avoid including provisions which may conflict with the statute. As already noted, those courts which have had occasion to speak on the question have held that, after adoption of a statute legalizing voting trusts, all trust agreements subsequently made must conform to the statute.<sup>20</sup>

<sup>15</sup> RESTATEMENT OF TRUSTS §§ 17, 100.

<sup>16</sup> 22 Del. Ch. 33, 191 A. 823 (1937).

<sup>17</sup> Del. Super., 15 A. (2d) 661 (1940).

<sup>18</sup> Del. Ch., 28 A. (2d) 81 (1942).

<sup>19</sup> FLETCHER, CORPORATION FORMS ANN. (3d ed.) §§ 2057-2088.

<sup>20</sup> Note 7, *supra*.

#### THE LIFE OF THE VOTING TRUST MUST BE LIMITED

Finally, Subsection 1 of the statute specifically provides that the voting trust agreement may be effective "for a period of not exceeding ten years." This provision results partly from the fact that even those courts which validated voting trusts in the early period insisted on doing so with certain restrictions. Included was the requirement that there be some reasonable limitation as to time.<sup>21</sup> Obviously, on general trust principles, there was no occasion to limit the arrangement to ten years, or any similar period, but the draftsmen of the statute, partly in an endeavor to conform to the language of some of the decisions rendered during the formative period of the law of voting trusts, apparently felt that a maximum ten year period would be appropriate. From a practical standpoint, there is a great deal to be said in favor of the reasonableness of limiting voting trusts to such a period. In connection with this time limitation clause, it is interesting to note that it has been held in Delaware, under a similar requirement of the corporate law of that state, that a voting trust agreement for a period longer than ten years is wholly void and is consequently not valid for a period of ten years.<sup>22</sup>

Also in Illinois, the Appellate Court held in *Friedberg v. Schultz*<sup>23</sup> that voting trustees could not elect directors for a term which would run past the expiration date of the trust. This decision is contrary to general trust principles. The direct holding is of only academic importance in those jurisdictions, including Washington,<sup>24</sup> where the stockholders have the power to remove the directors at will. By exercising that power, the beneficiaries of a voting trust could, immediately upon the termination of the trust, rid themselves of the last directors chosen by the voting trustees.

#### A DUPLICATE IN THE AGREEMENT MUST BE FILED IN THE OFFICE OF THE CORPORATION

Subsection 2 of the statute reads as follows:

"A duplicate copy of such agreement shall be filed in the registered office of the corporation and shall be open daily during business hours to the inspection of any shareholder or any depositor under said agreement, or the attorney of any shareholder or depositor."

This provision doubtless stems from certain statements contained in the early decisions, which somewhat grudgingly approve the validity

<sup>21</sup> "As, for instance, where the duration of the trust agreement was fixed for a time unreasonably long, or without a definite period, \* \* \* the contract has been held void." *Clark v. Foster*, 98 Wash. 241, 167 Pac. 908 (1917). The foregoing is typical of a number of the early decisions.

<sup>22</sup> *Perry v. Missouri-Kansas Pipe Line*, 22 Del. Ch. 33, 191 A. 823 (1937). *But see Western Pac. R. R. v. Baldwin*, 89 F.(2d) 269 (C. C. A. 8th Circ.) (1937).

<sup>23</sup> 312 Ill. App. 171, 38 N. E.(2d) 812 (1941).

<sup>24</sup> REM. REV. STAT. § 3803-31(4).



of voting trusts. As a matter of fact, there is no particular reason in theory why stockholders should be required to make agreements of this character public. However, many of the early decisions announce the proposition that voting trusts are valid if made for some proper and legal purpose. Such a qualified statement could, of course, be made about any legal transaction, such for instance as a contract.<sup>25</sup> In the early history of voting trusts, the courts saw sinister possibilities in combinations of the voting power of corporate stock. From these views there apparently developed the thought that unlawful combinations might be discouraged by a statutory requirement that the voting trust agreement be filed with the corporation and thus be available for inspection.

ANY SHAREHOLDER OTHER THAN THE ORIGINAL CREATORS OF  
THE VOTING TRUST MAY BECOME A PARTY THERETO

The third subsection of the statute reads as follows:

"Every other shareholder may transfer his shares to the same trustee or trustees upon the terms and conditions stated in said agreement, and thereupon shall be bound by all the provisions of said agreement."

This provision of the statute likewise reflects the view expressed in some of the comparatively early decisions relating to voting trusts. An analysis of those decisions indicates that this particular view was based upon a fundamental misconception. The view there taken is that unless all stockholders of the corporation can join the voting trust, they may not be able to participate in some advantages to be derived therefrom.<sup>26</sup> This, of course, assumes that the parties to a voting trust agreement will get some direct and lawful advantage which the other stockholders could not acquire without joining the voting trust. Obviously, this is not true. The benefit which the creators of a voting trust get is the advantage of having a block of stock voted as a unit. Any stockholder who is a stranger to the voting trust can, so far as his individual ownership is concerned, get exactly the same benefit by going to the meeting and there voting in the same manner as does the trustee under the voting trust. Or an individual stockholder possibly could arrange to give a proxy to the persons who are trustees under the voting trust. In either of these ways, by his own voluntary action and without the necessity of becoming a party to the voting trust agreement, he could avail himself of all the advantages which attach to the voting trust agreement.

Furthermore, the notion that this provision will somehow protect the outside stockholder from some self-seeking design of the creators of the trust is based on an incomplete analysis or a mistaken understanding of how many, if not most, voting trusts function. The original

<sup>25</sup> See Burke, *Voting Trusts Currently Observed* (1940) 24 MINN. L. REV. 347.

<sup>26</sup> *Kreissl v. Distilling Co.* 61 N. J. Eq. 5, 47 A. 471 (1900); STEVENS ON CORPORATIONS § 119, p. 477.

trustees are selected by the creators of the trust, and if, as is frequently the case, complete discretion is vested in these trustees as to the manner in which the stock is to be voted, the creators will choose trustees sympathetic to the viewpoint of the creators in matters of corporate policy. If the trust is designed for the benefit of the creators alone, any outside stockholder will simply strengthen the position of the creators, if he joins the trust and thus gives to such trustees the discretionary power to vote his stock.

From the foregoing, it becomes apparent that one provision of the voting trust agreement becomes of great practical importance, that is whether the trustees shall be granted complete discretion as to how to vote the stock, or whether they shall vote according to direction from, say, a majority of the beneficiaries. We have already seen that it is possible to put virtually any provision in the voting trust agreement which is not clearly contrary to the statute or public policy.<sup>27</sup> Frequently, voting trust agreements contain a provision permitting the beneficiaries under certain circumstances to vote among themselves on certain questions, and requiring the trustees to vote the stock at corporate meetings as determined by a majority of the beneficiaries.<sup>28</sup> In other trust agreements the discretion of the trustees is unlimited.<sup>29</sup> Thus, under the first type of provision, giving to the beneficiaries some control over the manner in which the trustees shall cast their vote, a trust may be created in the first instance by a relatively small group which has in mind certain policies which it desires to have effectuated. If a substantially greater number of stockholders thereafter join such a trust, they can, by voting as beneficiaries, require the trustees to vote in a manner entirely different from that which the original creators of the trust desire. Conversely, where a trust agreement contains the second type of provision, reposing complete discretion in the voting trustees, any stockholder who subsequently joins will have to abide by the decision of the trustees who were selected by the creators. Consequently, in drafting a voting trust agreement, it is very important to have in mind the possible consequences which may result under this subsection in the particular case involved. The problem will, of course, have to be dealt with in each case after considering the relative amounts of stock originally held by those within and without the trust, respectively, and by various other factors peculiar to the particular transaction and the object sought to be attained.

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<sup>27</sup>Notes 16, 17, 18, *supra*.

<sup>28</sup>See trust provisions in *Brown v. McLanahan*, U. S. D. C., Md., 58 F. Supp. 345 (1944), and *Application of Bacon*, 287 N. Y. 1, 38 N. E.(2d) 105 (1941).

<sup>29</sup>FLETCHER ON CORPORATIONS (perm. ed.) § 2089, entirely overlooks the possibility of a trust of this character, and criticizes this section of the statute on the ground that it would make impossible trusts for the protection of a minority.

From an entirely different standpoint, this statutory provision, which permits any stockholder to join the trust, has very substantial practical value. If it were not for this provision, the trust would be frozen as of the time of the creation, and the trustee and all parties to the trust would have to agree *specialy* to admit other stockholders to membership as and when such stockholders desired to join.<sup>30</sup> Obviously, it is ordinarily to the advantage of a trust, created by a well drawn trust agreement, to have as much stock represented by the trustees as possible. This subsection of the statute, by authorizing any other stockholder to join the trust simply by transferring his shares to the trustee upon the terms and conditions stated in the agreement, permits enlargement of the trust at any time.

#### THE STOCK MUST BE HELD IN THE NAME OF THE TRUSTEE

The fourth subsection of the statute reads as follows:

"The certificates of shares so transferred shall be surrendered and canceled, and new certificates therefor issued to such person or persons, as such trustee or trustees, in which new certificates, it shall appear that they are issued pursuant to said agreement. In the entry of transfer on the books of the corporation it *shall* also be noted that transfer is made pursuant to said agreement."

This subsection requires no detailed comment. It simply provides for the vesting of the title to the stock itself in the trustees, for the purposes shown by the trust agreement. The vesting of title in the trustee is essential in any trust. By virtue of such title, the trustee, not the beneficiary, is the stockholder. The trustee thus acquires an entirely different status from that occupied by a proxy who has no title to the stock but is merely the agent for the owner.

#### THE TRUSTEE MUST ISSUE VOTING TRUST CERTIFICATES TO THE BENEFICIARIES

Subsection 5 of the statute reads as follows:

"The trustee or trustees shall execute and deliver to the transferors voting trust certificates. Such voting trust certificates shall be transferable in the same manner and with the same effect as certificates of stock under the laws of this state."

Again this subsection shows that a voting trust is a true trust. Legal title to the stock is in the trustee, and the stock is carried in the name of the trustee on the records of the corporation. All that the beneficiary has as evidence of his ownership is the voting trust certificate issued by the trustee. The corporation has nothing to do with the issuance of the voting trust certificate. It knows that certain stock is held in trust, and it knows who originally placed that stock in trust.<sup>31</sup> It does not at any time know who are the beneficial owners of any of the stock held in

<sup>30</sup> RESTATEMENT OF LAW OF TRUSTS §§ 331, 337, 338.

<sup>31</sup> This subsection of the statute requires that there be noted on the records of the corporation the fact that all trust shares are under the trust agreement.

trust, because the records on that subject are records of the trustee and not of the corporation. As the final sentence of Subsection 5 above clearly shows, voting trust certificates are transferable both in the same manner and with the same effect as certificates of stock under the laws of this state.<sup>32</sup> Consequently, there can be a constant series of changes in the identity of the holders of voting trust certificates, and the extent and nature of those changes are no concern of and are unknown to the corporation. This complete separation of the holders of voting trust certificates from the corporation, so far as matters of record are concerned, has often been lost sight of by the courts, as will be observed in the discussion of the relative rights of the trustees and the beneficiaries hereinafter.

The statute does not purport to define the form of voting trust certificates, but very good forms are contained in the standard works on corporations.

#### RELATIVE RIGHTS AND POWERS OF TRUSTEES AND BENEFICIARIES

Subsection 6 of the statute reads as follows:

"The trustee or trustees shall possess all voting and other rights pertaining to the shares so transferred and registered in his or their names subject to the terms and conditions of and for the period specified in said agreement."

It is perhaps unfortunate that the provisions of this subsection are not more explicit. Of course, in theory the statutory language should be enough. Properly interpreted, it vests all powers of a stockholder of the corporation in the trustee, subject, however, to such trust obligations as may be expressed in or properly implied from the voting trust agreement. So treated, a voting trust assumes, as it should, the legal aspects of any trust. By reason of his title, the trustee alone has the right to hold and manage the trust property and to receive the income therefrom. In all his actions, however, the trustee is subject to all of the controls and obligations imposed by the law of trusts, generally, and the trust agreement under which he is acting. The beneficiary, on the other hand, has voluntarily relinquished his status as a stockholder and has acquired instead that of *cestui que* trust. Thereafter, his rights with respect to his stock are asserted against the corporation through the trustee. Finally, the beneficiary can hold the trustee to the latter's trust obligations.

All of these propositions would seem very fundamental, but there are, nevertheless, several decisions which reflect the notion in varying degree that a voting trust is not a true trust agreement,<sup>33</sup> and that for some purposes the beneficiary remains a stockholder of the corporation. These cases seem to employ the theory that since the essential purpose

<sup>32</sup> That is, in accordance with the provisions of the Uniform Stock Transfer Act, REM. REV. STAT. §§ 3803-101 to 3803-124.

<sup>33</sup> See notes 9 and 10, *supra*, for other examples of the same view.

of the voting trust agreement was to authorize the trustees to vote, then it must follow that the trustee is only a sort of glorified proxy. This conclusion is a complete *non sequitur*. The purpose of an act and the legal consequences of the same act are often quite different. As already observed, the trust device was arrived at by a process of elimination in order to secure certain advantages, and having obtained those advantages, the beneficiaries of such agreement must abide the usual results which attach to the type of transaction which they have employed.

The cases holding that the beneficiary of a trust is a "stockholder" for certain purposes strike at the fundamental trust status of voting trusts and add unnecessarily to the confusion of the law. Once it is conceded that the beneficiary of a voting trust is a "stockholder" for some purposes, despite the fact that he has transferred title in trust to the trustee in whose name the stock is thereafter carried on the records of the corporation, practically every right and power claimed by the trustee as a stockholder becomes suspect, unless clearly covered by the trust agreement. Even the extent of the trustee's voting power becomes open to question, because some beneficiary sooner or later will urge that despite the statutory vesting of "all voting \* \* \* rights" in the trustee, the latter is empowered to vote only for ordinary purposes, such as election of directors, and not upon such more fundamental questions as amendments to the articles of incorporation, merger or dissolution.

This entire problem could be avoided if it would be remembered that voting trusts are true trusts; that under the statute the beneficiary severs all direct connection with the corporation, and that the trustee becomes the stockholder; that, as between the trustee and the beneficiary, the rights of the trustee may be regulated by the voting trust agreement, but that, in the absence of such agreement, the trustee shall have all the powers of a stockholder, subject only to general trust duties to the beneficiary, and, finally, that even where the trustee's rights and powers are limited by agreement, the increased rights of the beneficiary are exercisable against the corporation only through the trustee and in accordance with the law of trusts, and not directly by the beneficiary as a stockholder. Certainly, any tendency to regard the voting trust agreement as creating anything in the nature of an irrevocable proxy must be unsound, inasmuch as the trust device was employed because irrevocable proxies were known to be illegal. Neither can the use of the trust device be regarded as creating some other unknown and unnamed status midway between a trust and a proxy, under which the trustee is the stockholder for some purposes and the beneficiary for other purposes.

Illustrative of the decisions holding that a beneficiary is for certain purposes a stockholder is the New York Court of Appeals case of

*Application of Bacon.*<sup>34</sup> In that case all of the stock of the corporation was held by voting trustees. The trust agreement conferred upon the trustees "all rights of stockholders of every kind and nature, including the right to vote." As a proviso to the clause containing the language just quoted, the trustees were required to call a meeting of the beneficiaries at the end of three years, at which meeting the beneficiaries were "to vote on whether or not the business of the company shall be liquidated in whole or in part." The agreement provided further, in a separate paragraph, that the trustees in their discretion might call a meeting of the beneficiaries at any time to procure instructions as to voting "for any and all purposes, except with respect to the voting of such shares for the election and/or removal of directors."

As required by the proviso above mentioned, the trustees at the end of three years did submit the question of liquidation to the beneficiaries at a meeting called for that purpose. The beneficiaries then voted against dissolving the corporation. Subsequently, the trustees called another meeting, pursuant to their discretionary power to ask for instructions at any time, and at that meeting submitted to the beneficiaries the question of whether an offer for the purchase of all of the corporation's assets should be accepted and the corporation dissolved. This time "an overwhelming majority" of the beneficiaries voted to accept the offer. The trustees then proceeded to vote all of the stock of the corporation at a stockholders' meeting in favor of the sale of all the assets of the corporation and its subsequent dissolution.

Under the New York corporation law, it is provided that on a sale of all of the corporation's assets, a stockholder, who did not vote in favor of the sale and who thereafter takes certain prescribed steps, is entitled to have his stock appraised and paid for by the corporation at the value so fixed. Certain of the beneficiaries, who had voted against the sale at the meeting of beneficiaries last mentioned, brought this proceeding to have appraisal and compensation for their "stock" under the statute. The corporation objected upon the ground that these claimants could not qualify because they were merely holders of voting trust certificates and not stockholders, and that further their stock had been voted in favor of the sale by the trustees at the stockholders' meeting.

The court held, however, that certificate holders were stockholders entitled to compensation under the statute, and furthermore, that the trustees had no power to vote the stock allocable to the voting trust certificates of the claimants upon the question of a sale of all of the corporation's assets.

This result seems absolutely indefensible when it is considered that an overwhelming majority of the holders of the voting trust certificates specifically instruct the trustees to vote in favor of the sale at the meeting

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<sup>34</sup> 287 N. Y. 1, 38 N. E.(2d) 105 (1941).

of the beneficiaries called for that purpose. Laying aside any question of the general power of the trustees to vote without such instructions, it is clear that the beneficiaries had definitely agreed in the voting trust agreement to permit a majority of their number to determine what instructions should be given to the trustees on behalf of all the beneficiaries, if the trustees saw fit to call a meeting for the purpose of getting such instructions. The court became confused to the extent of completely overlooking the fundamental principle of a voting trust, that is that all of the stock in the trust is to be voted as a block.<sup>35</sup> On the contrary, the court regarded the meeting of the beneficiaries as a gathering in which each beneficiary might give separate directions to the trustee as to the manner in which he wished the stock allocable to his particular voting trust certificate to be voted at the stockholders' meeting.

In addition to being based on the misconception of principles just mentioned, the court squarely stated that “\* \* \* neither the holders of the voting trust certificates nor the voting trustees possess all the rights of stockholders. Each group are ‘stockholders’ for the same purposes—neither group for all purposes.” As already indicated, this sort of statement opens the gates wide to controversy as to the boundary line which runs between the powers of the trustees and the beneficiary, and converts a voting trust from a true trust to some other undefined form of legal relationship.

More specifically, the court, in the *Bacon* case, *supra*,<sup>36</sup> expressed the view that the trustees would not have the power to vote for the sale of all the assets and the dissolution of the corporation, unless that power is clearly conferred by the voting trust agreement. The language of the court is: “the power to destroy stock would not, however, be implied merely from the power to vote the stock. Only by use of clear language can such an extraordinary power be conferred.” Inasmuch as the language in the voting trust agreement under consideration was that the trustees should have “all voting rights,” it would seem that there was no problem of implication involved. On the contrary, in denying the power to vote on any specific matter, the court itself implies a

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<sup>35</sup> The author of the note in 55 HARV. L. REV. 868, dealing with the *Bacon* case, became even more confused, stating: “But the court ignored the fact that two-thirds of the certificate holders had not authorized liquidation. By allowing a majority to authorize the trustees to vote all shares for liquidation, the court permits the instruction device to circumvent the statutory requirement.” The statutory requirement was that two-thirds of the stock be voted for dissolution. The comment disregards the fact that all the stock was to be voted as a majority of the beneficiaries might determine. To permit a dissenting minority of more than one-third but less than one-half of the certificate holders to prevent the voting of the stock as a single block would be to grant the minority rights directly contradictory to the agreement to which they are parties.

<sup>36</sup> Note 34, *supra*.

term into the agreement which would forbid the voting trustees to vote on a particular subject.

However, an argument could be made for the denial of the power of the trustees to vote for dissolution in the absence of some specific authorization along that line. This would be on trust principles under which a trustee cannot dispose of trust property if it appears from the terms of the trust that the property is to be retained in specie.<sup>37</sup> Furthermore, the voting trust agreement contained a clause which required the trustees in the *Bacon* case to submit the question of dissolution to the beneficiaries at the end of three years. This clause possibly suggested that the trustees had no general authority to vote in favor of dissolving the corporation, and the court felt that it resolved all doubt against the existence of the power. In light of these circumstances, the *Bacon* case cannot be severely criticized for questioning the general authority of the trustees under this particular trust to vote for liquidation, without first procuring approval from the beneficiaries. The court should, however, have made it clear that the question depended upon the extent of the trustee's trust obligations and authority, and not on any retention of the status of a stockholder by any beneficiary of the trust, nor by reason of any analogy to the power of proxies to vote on such matters.<sup>38</sup>

If the voting trustee does not have the "power" to vote the stock on certain questions, it does not follow that that power has been reserved to the beneficiary. The real fact is that the trustee may not be able, in certain circumstances, to vote in favor of dissolving the corporation, because to do so would be violative of his trust obligations.

What then is the effect of holding that a voting trustee cannot vote to dissolve the corporation? Is the power to vote on that subject in a state of complete suspense for the duration of the voting trust agreement, or its amendment, with unanimous consent of the beneficiaries? Logically, the answer would have to be in the affirmative. The very submission of these questions indicates the advisability of providing some formula in the voting trust agreement for the handling of this problem.<sup>39</sup>

The *Bacon* case has been reviewed at such length for illustrative reasons. There are other decisions which seek to protect the beneficiaries from some supposed danger by the process of holding that the bene-

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<sup>37</sup> RESTATEMENT OF LAW OF TRUSTS § 190 (b). Voting trust certificates generally contain a clause stating that upon surrender thereof at the termination of the trust, the holder of the certificate will be entitled to receive a stated number of shares of stock. But under § 193 of the RESTATEMENT, a trustee can consent to a reorganization "provided that it is prudent under the circumstances to do so."

<sup>38</sup> Proxies ordinarily cannot vote on fundamental changes in corporate structure. FLETCHER ON CORPORATIONS (perm. ed.) § 2060. *But see* *Gow v. Consolidated Coppermines Corp.* 19 Del Ch. 172, 165 A. 136 (1933).

<sup>39</sup> This could be done either by vesting the power in the trustee absolutely or by authorizing him to be bound by an instructing vote of whatever percentage of beneficiaries is thought proper in the particular case.



fiary retains his status as a stockholder. Space does not permit, nor necessity require, a comparable review of all the other cases, but the following are of interest:

In *O'Grady v. United States Independent Telephone Co.*,<sup>40</sup> it was held that the holder of a voting trust certificate could maintain an action for the winding up of an insolvent corporation under a statute permitting such action to be initiated by a stockholder. The New Jersey court had previously held in cases not involving voting trusts that the word "stockholder" in the statute included the beneficial owner of stock. Consequently, the decision in the *O'Grady* case simply applied the already settled construction of the statute to a voting trust transaction. In effect, therefore, the case does not hold that the beneficiary of a voting trust is a stockholder for all purposes, but only within the meaning of the particular statute involved, in view of prior construction of the meaning of that particular statute.

The *O'Grady* case was adopted as authority by the Court of Chancery in Delaware in *John W. Cooney Company v. Arlington Hotel Company*.<sup>41</sup> In the latter case the Delaware court held that the holder of a voting trust certificate could be subjected to liability for an unpaid assessment on account of the stock allocable to his certificate. This case was not, like the *O'Grady* case, rested on a special interpretation of a statute, and is inconsistent with the trust character of the voting trust arrangement. The case doubtless is based to some extent on the court's view that moral justice permits the imposition of the assessment on the beneficial owner. However, if the voting trust is a true trust, as a majority of courts declare it to be, there is no occasion for visiting a personal liability on the beneficial owner, and the corporation should rather enforce the liability against the trustee in his trust capacity, as permitted by the law of trusts.<sup>42</sup>

In *State Tax Commission v. Commissioners of Baltimore County*,<sup>43</sup> the Court of Appeals of Maryland held that residence of the beneficial owners of voting trust stock determined the situs for taxation under a statute which provided that stock should be assessed "to the owners of shares of stock in the county or city where they reside." In other words, for tax purposes, the Maryland court held that the beneficial owner was the owner of the stock within the meaning of the statute. This again is simply a case of statutory construction. It did not declare generally that the holder of a voting trust certificate might be regarded as a stockholder. In fact, the word "stockholder" was not used in the statute. Reference there was rather to ownership of the stock, which

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<sup>40</sup> 75 N. J. Eq. 301, 71 A. 1040 (1909).

<sup>41</sup> 11 Del. Ch. 286, 101 A. 879 (1917).

<sup>42</sup> RESTATEMENT OF LAW OF TRUSTS §§ 265, 277.

<sup>43</sup> 138 Md. 668, 114 A. 717 (1921).

can include beneficial ownership as well as legal title—a distinction well-known to the law of trusts.<sup>44</sup>

The Court of Chancery of Delaware has had occasion to consider the problem of the right of the beneficial owner to have appraisal of and compensation for his stock in the case of a corporate merger or consolidation. This is a procedure substantially identical in character with that involved in *Application of Bacon, supra*,<sup>45</sup> although there the procedure was invoked on the sale of all of the corporation's assets. The leading Delaware case is *Schenck v. Salt Dome Oil Corporation*.<sup>46</sup> No voting trust was involved in that case, but the court held that the word "stockholder," appearing in that portion of the law entitling a stockholder to appraisal and compensation, should not be construed "in a strictly legal sense," so that one who is the beneficial owner of stock registered in the name of another was entitled to apply for compensation.

The Delaware court applied the same rule to voting trust stock in *In re Universal Pictures Company*.<sup>47</sup> In that case, however, it was required that the holder of the voting trust certificate identify the amount of stock held by him when he filed written objections with the corporation prior to the time when the vote was taken on the question of merger.

In order to qualify for appraisal and compensation, it is a requisite that the "stockholder" has not voted his shares in favor of the merger. The Delaware court, in *Scott v. Arden Farms*,<sup>48</sup> held that the vote of the voting trustees in favor of the merger, when made in accordance with authority contained in the trust agreement, barred the beneficial owner of the right to have appraisal and compensation for his stock.

In New York the Appellate Division of the Supreme Court has repeated the statement contained in the *Bacon* case, *supra*, to the effect that the trustees and the beneficiaries under a voting trust each is a stockholder for some purposes. It was, in fact, unnecessary for the court to invoke this unsound and disturbing doctrine. The actual question involved in the case<sup>49</sup> was whether the beneficiary of a voting trust has the right to inspect the voting trustees' records. The court apparently felt that if the beneficiaries were stockholders of the corporation, they might have some right of inspection. Obviously, however, the right of inspection of a stockholder is the right to inspect the corporate records. No stockholder has the right to inspect the *trustees' records*. The beneficiary, however, would have the right to call upon the trustee for any information pertaining to the trust, and the trustee would be

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<sup>44</sup> RESTATEMENT OF LAW OF TRUSTS §2, comment d.

<sup>45</sup> Note 34, *supra*.

<sup>46</sup> Del. Ch., 34 A.(2d) 249 (1943).

<sup>47</sup> Del. Ch., 37 A.(2d) 615 (1944).

<sup>48</sup> Del. Ch., 28 A.(2d) 81 (1942).

<sup>49</sup> *Brentmore Estates, Inc. v. Hotel Barbizon, Inc.*, 263 App. Div. 389, 33 N. Y. S.(2d) 331 (1942).

required to supply such information. This would be on trust principles,<sup>50</sup> and the principles of corporation law relative to the right of a stockholder to inspect the corporation's records would have no relevancy. The case illustrates how the broad statement of the *Bacon* case, disregarding the trust character of a voting trust, can serve unnecessarily to confuse the whole problem.

In *Smith v. Bramwell*,<sup>51</sup> the Supreme Court of Oregon expressed the general view that for some purposes the status of a beneficiary is that of a stockholder. This statement was made in connection with the right of the stockholder to maintain a representative suit.

The Supreme Court of New York, in *Hayman v. Morris*,<sup>52</sup> also declared, without any special consideration, that a beneficiary can maintain a stockholder's representative suit.

All of these decisions, in varying measure, serve to confuse the law governing the relative rights of trustees and beneficiaries under voting trusts. Some of them are, as indicated, distinguishable upon the ground that they involve construction of language in a particular statute, but even those cases are likely to be misapplied. In the long run, the courts might do well to leave the amendment of statutes to the legislature.

Opposed to these cases are the various ones which recognize the true trust character of voting trust transactions.<sup>53</sup> Even though many of these cases do not pretend to define the relative rights of the trustee and the beneficiary, they do, by recognizing the trust status, adopt the principles of the law of trusts, which themselves mark the boundary line. A few cases, however, specifically deny to the beneficiary the rights of a stockholder.

For instance, *State ex. rel. Crowder v. Sperry Corporation*<sup>54</sup> declares that a beneficiary cannot inspect the corporate records because the beneficiary is not a stockholder of the corporation.

The Supreme Court of California, in *Atkins Corporation v. Tourny*<sup>55</sup> held that the holder of a voting trust certificate could not, in a proceeding against the trustee to compel the issuance of a new voting trust certificate to replace one which was lost, invoke the statute which requires a corporation to issue new certificates of stock in case the original certificate is lost. The court did, however, in this case require the trustee to issue a new certificate, but did so on general equitable principles, rec-

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<sup>50</sup> RESTATEMENT OF LAW OF TRUSTS § 173, deals with duty of trustee to give information to beneficiary and to permit latter to inspect trust records. Subsequent to the decision in the *Brentmore* case, note 49, *supra*, a statute permitting inspection of the trustees' records by the beneficiary was adopted in New York. See *Palley v. Chase National Bank*, 35 N. Y. S. (2d) 958 (1942).

<sup>51</sup> 146 Ore. 611, 31 P.(2d) 647 (1934).

<sup>52</sup> 36 N. Y. S. (2d) 756 (1942).

<sup>53</sup> Note 14, *supra*.

<sup>54</sup> Del. Super., 15 A. (2d) 661 (1940).

<sup>55</sup> 6 Cal. (2d) 206, 57 P. (2d) 480 (1936).

ognizing that the statute referring to the right of stockholders had no application to a beneficiary under a voting trust.

When the rights of a corporation stockholder are considered, it is apparent that great difficulty would be encountered in applying the rule that the beneficiary of a voting trust is a stockholder "for some purposes." The principal rights of stockholders are the following:

1. The right to vote on ordinary matters, such as election of directors.
2. The right to vote on fundamental changes in the corporate structure, such as amendment of the articles, sale or lease of all assets, merger or consolidation and dissolution.
3. The right to call stockholders' meetings under certain circumstances.
4. The right to examine the corporate books and records.
5. The pre-emptive right to participate in new stock upon increase of the capital stock.
6. The right to sue or defend on behalf of the corporation under certain circumstances.
7. The right to dividends.
8. The right to notice of stockholders' meetings and of proposed corporate action of certain kinds.
9. The right to have stock appraised and paid for by the corporation in case of fundamental changes in the corporate structure when the stockholder has not voted in favor of such changes.

The cases which have suggested that a beneficiary has some of the rights of a stockholder have dealt with a few of these matters. Regarding those cases as unsound, this article will not speculate on any division of these rights between voting trustees and beneficiaries. It is undoubtedly true that the immediate reaction is that the beneficiary should have some of these rights. He is not, however, a stockholder, and it would be more logical to protect him by application of trust principles. This can most effectively be done by a clear definition of the trustees' trust obligations in the trust agreement. Possibly, the subject might also be worthy of statutory amendment.

In concluding any discussion of the relative rights of voting trustees and the beneficiaries of voting trusts, it should be observed that the whole problem could have been disposed of if legislatures had authorized the use of irrevocable proxies in lieu of voting trusts.<sup>66</sup> Without statutory authorization, the trust method was the only one which seemed legally sound and capable of accomplishing the desired purpose. Legislatures could, however, have altered the public policy of their respective states so as to legalize irrevocable proxies. The fact that they did not do so, but, instead, preserved the trust character of the relationship is all the more reason why the courts must regard voting trusts as true trusts.

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<sup>66</sup> (1942) 21 *TEX. L. REV.* 139 (Ballantine).

MANNER OF VOTING, VACANCIES IN TRUSTEESHIP AND  
LIABILITY OF TRUSTEE

The seventh and final subsection of the statute contains a brief miscellany of rules governing the trustee:

“Unless otherwise provided in said agreement,

“a. the trustees may vote in person or by proxy;

“b. if there are two or more trustees, the manner of voting shall be determined as provided in Section 3803-28, Subdivision 5;

“c. vacancies among the trustees shall be filled by the remaining trustees;

“d. a trustee shall incur no responsibility as trustee except for his own individual neglect or malfeasance.”

The preliminary clause shows clearly that these rules are applicable only if consistent with the agreement.

The first of these rules permitting voting by proxy was considered in a Delaware case.<sup>57</sup> It was there contended that, on trust principles, the voting trustee could not delegate his duty of determining how the stock should be voted, and that, therefore, in using a proxy the voting trustee would have to instruct the proxy to vote in a manner previously determined by the trustee. The court, however, held that under the statute the trustee, like any other stockholder, could select a proxy and repose in him the full power of determining how to vote the stock. In other words, the trustee's powers include the power of delegation to a proxy.

The second rule contained in this subsection refers back to the preceding section of the corporation statutes, and thus covers the manner of voting where there is more than one trustee. The preceding section<sup>58</sup> provides that when stock is held by a number of fiduciaries, the manner of voting or the choice of a proxy shall be as determined by a majority, unless the instrument or order appointing the fiduciaries directs otherwise, and, further, that in case of an equal division of opinion among fiduciaries, the court may, upon application, appoint another person to act with such fiduciaries so as to resolve the deadlock.

The third rule is an incomplete one, dealing with the subject of filling vacancies in the trusteeship. It provides only for trusts where there are several trustees, in which case the remaining trustees fill the vacancy. It ignores trusts with a single trustee, and those in which there are several trustees whose trusteeship terminates simultaneously for any reason. In these omitted cases the courts, on general trust principles, can appoint a new trustee,<sup>59</sup> unless it appears that the intention was to appoint a personal trustee who should not be replaced.<sup>60</sup> Some un-

<sup>57</sup> *Chandler v. Bellanca Aircraft Corp.*, 19 Del. Ch. 57, 162 A. 63 (1932).

<sup>58</sup> REM. REV. STAT. § 3803-28 (5).

<sup>59</sup> RESTATEMENT OF LAW OF TRUSTS § 108.

<sup>60</sup> RESTATEMENT OF LAW OF TRUSTS, § 101 (b).

certainty is very possible on the latter point. This makes it advisable to cover the matter of successor trustees in the voting trust agreement. Doubtless this could be done by providing that a majority of the beneficiaries should select the new trustee, if it is desired to handle the matter in that way.

The fourth rule in this final subsection requires little comment. It is designed to protect the trustee from liability, except for personal wrongful acts.

#### CONCLUSION

It is apparent from an examination of the statute and from this article that the statutory treatment of voting trusts does not deal extensively with the details of the relationship. Those details are to be supplied in voting trusts, as in all other trusts, from two sources, the voting trust agreement and the principles of the law of trusts generally. Obviously, the more explicit the agreement, the less will be the uncertainty. This article has not attempted to deal in exhaustive detail with the contents of voting trusts, but the problems discussed should be of assistance in pointing out the general approach which should be taken. Carefully drawn agreements do much toward maintaining the law of voting trusts on a consistent and intelligible basis.

Although voting trusts have been before the courts for more than half a century, the early preoccupation with their fundamental legality overshadowed all other aspects of the relationship. A singular consequence is that only within the last few years have the detailed aspects of voting trusts begun to receive substantial consideration. It is in the hope that some aid will be given to the creation and perpetuation of uniform and consistent principles that this article is written.

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