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NOTES

PARTICIPATION OF PREFERRED SHAREHOLDERS BEYOND STATED PREFERENCE

In the absence of express provision, may preferred shareholders participate in dividends beyond the stated preference? In the recent case of *Tenant v. Epstein*,¹ the Supreme Court of Illinois was called upon to answer this question under rather unusual circumstances. The corporation was organized with capital stock of \$160,000, consisting of 2000 shares of \$5 par value common stock, and 30,000 shares of \$5 par value 7% cumulative preferred. Tenant owned 500 shares of common and 2000 shares of preferred stock, while the Epsteins² had 1500 shares of common and 28,000 shares of preferred stock. Both common and preferred carried one vote per share. Cash dividends of 7% on the preferred stock had been paid annually during the seven year period of the

¹ 356 Ill. 26, 189 N.E. 864 (1934), noted in 83 Univ. Pa. L. Rev. 91 (1934).

² The Epstein family were directors of the corporation and owned all stock except that owned by Tenant.