

THE UNIVERSITY OF CHICAGO LAW REVIEW

VOLUME 13

APRIL 1946

NUMBER 3

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NOTES

APPLICATION OF THE RULE OF *YOUNG v. HIGBEE CO.* TO STOCKHOLDER DERIVATIVE SUITS

In *Young v. Higbee Co.*¹ the Supreme Court surprised corporation lawyers by imposing a fiduciary duty upon preferred stockholders who were contesting a plan of reorganization filed in proceedings under Chapter X of the Bankruptcy Act.² It was held that the stockholders who dismissed their appeal and sold their stock for an amount greatly in excess of its market value must account to the other stockholders for the amount received above the value of the stock. The desirability of such a rule deserves serious consideration as a possible means of checking the abuse of stockholder derivative suits.

¹ 324 U.S. 204 (1945).

² 52 Stat. 840 (1938), 11 U.S.C.A. § 501 (1939).