

or depreciation allowed for before profits are available for dividend, the following cases are to be considered.

In *Re Ebbw Vale Steel Iron & Coal Co* (1877) 4 C.D. 827 Jessel, M.R., inclines to the opinion that a limited company could not pay dividends unless its paid-up capital were kept up.

In *Bouch v. Sproule* (1887) 12 A.C. 385 the use as capital of accumulated profits by companies having no power to increase their capital was considered. It was there determined, following *Irving v. Houstoun*, 4 Paton Sc. Ap. 521, that any distribution from those accumulated profits must be taken, as between a remainderman and life tenant, as a distribution of capital. But as stated by Lord Herschell this determination in no way affects the power of a company, which has the right to increase its capital and to appropriate its profits to such increase, to distribute these profits as dividends when it has not appropriated them to capital.

*Lee v. Neuchatel Asphalt Company* (1889) 41 C.D. 1 contains some very interesting views as to capital. It was there pointed out that capital may mean either the share capital or the assets of the company in which that share capital is invested. While, therefore, the share capital cannot be decreased except as provided by the Companies Act, the value of the assets may fall and it is not incumbent on the company to maintain the value of the assets at the original figure before it can pay dividends. Where property is taken over for shares and the shares are thereby paid up it is obvious that the property so taken may increase or diminish in value. Accretions to capital are capital and not divisible profits. In determining profits, according to Lopes, L.J., (p. 27) accretions to and diminutions of the capital are to be disregarded. And the share capital, paid in in cash, may, according to Lindley, L.J., (p. 22) be sunk in getting a business, e.g., a company to start a daily newspaper may expend £250,000 before the receipts from sales and advertisements equal the current expenses. This expenditure is proper if it is in accordance with the articles of Association or charter of the company. Cotton, L.J., (p. 17) endorses this view. Lindley,