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Review of “Profits, Dividends, and the Law,” By Prosper Reiter, Jr.

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Dr. Henry confines his study to contract cases in the middle ages—before the action of *assumpsit* made its appearance in the royal courts. Perhaps the most interesting feature of the book is Dr. Henry's positive statement (page 211) that a hundred years before the action of *assumpsit* was invented a breach of parol promise, quite independent of debt, could be the subject of a successful action in the local courts of England. Twenty-seven years ago, Professor Maitland suggested this as a possibility, and Dr. Henry says that since a certain essay was "written by Maitland, much material has become accessible in which parol covenants as enforced in the local courts may be studied. There is not the slightest doubt that they were enforced. Not only are there cases in the seignoral courts, but we also find them in the courts merchant, and parol covenants were provided for in the borough *customals*."

According to the developed common law of England, a gratuitous promise never was binding unless it was in the form of a writing under seal. Dr. Henry believes and endeavors to show (page 133) that gratuitous promises, when made with certain formalities, were enforceable even before the use of a seal on wax was introduced into English civilization. This would seem to indicate that by the test of ancient history Lord Mansfield was right in asserting before *Rann v. Hughes* was decided by the House of Lords in 1778, that there could be a valid contract without a seal and without a consideration.

Another interesting theory of Dr. Henry's is that the action of debt, in the King's courts and also in the seignoral courts, was originally of a quasi criminal nature and that the quasi criminal nature was emphasized for the purpose of ousting the popular courts (the county courts) of their jurisdiction. On page 16 Dr. Henry says "the word 'deforces' was put into the royal writ of debt when it was first formulated, to give colour to the jurisdiction. The recognized courts in which to bring debt proceedings, in which they had been brought for many centuries, from time immemorial, were those of the county and the hundred. The king was innovating when he offered a remedy for debt in his own central courts. His best excuse for assuming jurisdiction was on the theory that the non-payment of a debt was a breach of the king's peace. That was a well-established ground for his interference. It may therefore have been thought wise to insert in the writ that the defendant had deforced the plaintiff. After a time, when the writ had come to be taken as a matter of course, the fictitious word could well be omitted, as in fact it was. In the seignoral courts we might well expect precisely the same phenomenon. Not only would there quite naturally be a tendency for pleadings in them to imitate those of the central courts of the king, but the lords had exactly the same reason as the king for seeking colour for debt jurisdiction, as to their free tenants. The latter might claim that they need answer suits upon debts only in county and hundred courts. But the lords, like the king, had their peace to maintain, and so breaches of debt were alleged to be deforcings and against the peace of the lord. When the lord's jurisdiction in such suits came to be looked upon as a matter of course, the fictitious words were dropped."

Dr. Henry, who at one time was a Rhodes scholar from Illinois at Oxford, has had experience as a teacher in various American law schools, as a judge advocate in the army, and as a judge of the "Mixed Courts" of Alexandria, Egypt.

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PROFITS, DIVIDENDS, AND THE LAW. By *Prosper Reiter, Jr.*, J. D. With an introduction by *Prof. Henry Rand Hatfield*. pp. xi and 260. New York: The Ronald Press Company, 1926. Price \$4.50.

At this time, when so much of our business is conducted by corporations, the question as to what constitutes profits is important. The conflicting rights of preferred and common stockholders, tax matters, and the right of the creditors to the unimpaired capital are dependent upon what are deemed to be the profits for the year. In order to escape individual liability, the directors must look to the accountants and lawyers for advice in disbursing dividends. As the science of accounting is not developed to the stage of uniformity, and, from the nature of it probably never will be, the accountants are not in accord on many matters which enter into the preparation of a profit and loss statement. Much depends on individual judgment and policy. Coupled with this fact is the fact that the courts, who have the final word in the matter, seem to have been somewhat confused. To make matters worse, the accountants and the lawyers have never formed a mutual admiration society.

With conditions in this state, the author has set out to inform his readers, lawyers, business men, and accountants, as to the meaning of the decisions and the legal provisions on the subject of profits and dividends. He seems to be ably suited to do so, being learned in accounting as well as in the law.

Mr. Reiter begins with the British law, and reviews the cases, keeping in mind the particular facts in each case. He then discusses the American cases, and devotes considerable space to modern accounting practice. He does this because, in order to properly understand the cases and the questions involved, a knowledge of accounting principles is necessary. Several leading accounting texts are cited. The author makes a constant effort to reconcile the cases and explain them in the light of the facts involved, but in some instances, particularly in the earlier cases, is constrained to conclude that the courts have been confused. Fortunately, most of the later cases are decided in conformity with recognized principles of accounting.

The book should prove of value to lawyers who wish to know the law on the subject, and, at the same time, gain some knowledge of accounting principles, and to directors, accountants, and other business men, to guide them in preparing statements and paying dividends.

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A SELECTION OF CASES ON CRIMINAL LAW, edited by *Francis Bowes Sayre*. pp. XXXIX and 1135. Rochester: Lawyers' Co-operative Publishing Co.; 1927. Price \$6.50.

Sayre's *CASES ON CRIMINAL LAW*, edited by the compiler of the earlier *CASES ON LABOR LAW*, is intended to supersede the prior volume, now in its third edition, by Professor Beale, to whom Professor Sayre dedicates his book. While the debt of the new volume to its predecessor is considerable, as a comparison of the tables of cases indicates at once, the new book is far more than an amplification and modernization of the old. Its approach to the subject of criminal law is a radical departure from that of any casebook previously in the field.

Although Professor Sayre makes it clear in his preface that the task which lawyers have to perform in connection with criminal administration is the specialized one of sorting out offenders and that it is the primary business of a law school course in criminal law to aid students in acquiring the technical equipment for performing this task, it is equally clear from the contents of the book that it is thought scarcely less important for lawyers and law students to approach their task with a full appreciation of the entire problem and of the