

"realized profits." Kay, J., held that profits were not "realized" by estimating the value, for the time being, of the instalments of principal and interest remaining unpaid by each mortgagor. He decides that realized profits out of which dividends can be paid must be either cash in hand or "rendered tangible for the purpose of division." In *Leeds Estate Co. v. Shepherd* (1887) 36 C.D. 787 Stirling, J., held that the articles of Association warranted the payment of dividends out of estimated profits arrived at upon estimates of the company's accounts, and he indicates that directors may properly act upon valuations of their properties in proposing a dividend. His reference to *Stringer's case* (ante) at pp. 801-2 is liable to misconception. The question in that case was as to dividends during the company's career and not after its complete winding-up. The quotation from the remarks of Gifford, L.J., that dividends might be paid "out of profits, although those profits were not profits in hand" refers obviously to profits in hand as meaning those ascertained after all the company's operations were concluded (see page 491) because the article mentioned as authorizing the payment of dividends (page 490) expressly says "as soon and as often as the profits of the company in hand are sufficient," i.e., in hand from time to time upon a proper estimate of the company's accounts. In *re Sharpe* (1892) 1 Ch. 154 emphasis is put by North, J., upon the necessity of directors having a proper profit and loss account made out and in seeing that that account contains what is essential for the purpose of ascertaining whether or not there is a profit. In that case interest had been paid upon the amounts paid up on the shares, and the Court of Appeal, while thinking that it was doubtful whether, under the articles, interest must be paid only out of profits, held that payment of interest when there were no profits was a misapplication of the assets of the company and was ultra vires, i.e., an act beyond any power which the company could confer upon its directors. It was in effect a return of part of the capital to the shareholders and authorization in the articles of Association to do so would be invalid. This