*Hickman*, said: "I great doubt whether the creditor who merely obtains payment of a debt incurred in the business by being paid the exact amount of his debt and no more, out of the profits of the business, can be said to share the profits;" and the proposition that if one "limits his claim to be paid out of profits only, his limited right to payment creates an unlimited liability" was pronounced by Pollock, C. B., in another case, "unjust, absurd and at variance with natural equity." These *dicta* seem to settle the rule which governs such cases. Here B. was in fact a creditor, not of the supposed firm, but of A. individually; the debt was not even "incurred in," but was preliminary to, the business, and the application of profits being for the payment of an existing debt, there was not such a participation as to establish the relation of partners, between A. and B.

Applying our own reasoning to the case, it appears that the interests of the parties in the profits were not homogeneous, for all the profits belonged primarily and exclusively to A., as the fruit of his own capital and labor. B.'s interest in the profits—if he can be said to have an interest therein—was the result of a distinct and independant contract with A. and not of any implied contract with A.'s creditor. Under the existing agreement B. had no lien on the profits, but only a right of action against A. for so much as they were worth; consequently these interests did not subsist in the same right or necessarily in the same subject-matter, and therefore there was no partnership between them.

There is a class of cases where the contract between A. and B. is continuous on both sides and contains a provision for the continued payment of profits. Here, as in other cases, the relation of the parties must be gathered from the whole contract, and not postulated by mere force of the word *profits*.

In *Ex parte Langdale*, 18 Ves. 300 (in terms of the formula), it appears that A., the bankrupt, had kept a canteen, and that B. was a manufacturer of beer. The statements of the parties were conflicting: A represented that half his shop-rent was paid by B. in consideration of A.'s paying him 17s. per barrel of beer out of the profits. B. stated that he paid half the shop-rent and A. in consideration thereof paid him £4 5s. per barrel for beer, while other customers paid only £3 8s. Lord Eldon sent the case to a jury to determine "whether this was an agreement for a division of the profits, or B. stood only in the relation of a vendor of beer to this retailer at £4 5s. per barrel, in consideration of paying half his rent, selling to others at £3 8s." Now, if we seek to apply the rule of *Cox* v. *Hickman* to this case, we find it just as difficult to say whether A. and B. were mutually principal and agent, as it is to decide as an original question, whether they were partners or not. We shall not undertake to solve the problem, but will leave it to suggest its own solution, in the belief that this article has already exceeded its proper limits.

The reasoning contained in the foregoing observations may not *always* be capable of easy and useful application, still there may be many cases in which it will facilitate the solution of the main question the lead to satisfactorily conclusions. And especially is this likely to be true in cases of annuities and loans, or in cases like that of *Cox* v. *Hickman*, where it may be important to show that the liability is completely exhausted in some intermediate party and consequently cannot reach beyond. For as we have seen, the person to be charged must be a party to a contract either express or implied, and where it is not expressed and cannot be inferred from the actual relations of the parties, there can of course be *no* contract and by consequence no liability.

S. D. Davies.

—*American Law Review.*

## THE ELECTION BILL AND THE PROFESSION.

The ballot makes personation easy and detection difficult; it vastly facilitates the process of bribery, by removing the fear of discovery and punishment.

Bribery will not be prevented by merely moral influences—that is proved by all experience. No party hesitates to resort to it when necessary to success. No man, however virtuous in profession, was ever known to vote against his party because they were winning by corruption; he is content to share the spoils of victory and ask no questions. In very truth, nobody really looks upon it as a crime or upon a man who gives or takes a bribe as he views a thief. Everybody would prefer to win an election by honest means, but he would prefer to win by bribery rather than be beaten. Nothing but fear of the penalties really operates to deter, and even they go no further than to introduce more contrivance and caution in the conduct of the business. Whatever reduces the risk of discovery enormously increases the temptation alike to give and to take bribes.

It is scarcely denied that the ballot makes bribery comparatively easy and safe; but its advocates contend that, though it will not make men less willing to take bribes, it will make them less ready to offer bribes, because they cannot secure the fulfilment of the corrupt contract. Voters, it is said, will accept bribes from all, and promise all, and can only give to one; a man who will take a bribe will not hesitate to break his promise. This argument, however, assumes much that is not true in fact. The truth is, as our readers very well know, the great majority of the voters who take bribes perform their contracts faithfully. There is a strange point of honour among electors in this matter. They do not look upon the taking of a bribe as a moral, but only as a legal, offence; in their estima-