mutual recognition has the "moral" character that Campbell assumes; at least insofar as contract parties, rather than the courts, are concerned (p. 9).

None of this, however, is to take away from what is a thoughtful, imaginative and important contribution to contract law scholarship. One hopes that this excellent volume reignites a popular interest in detailed, doctrine-facing theoretical scholarship with a basis in a pragmatic and sensible relational theory.

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Company Law: A Real Entity Theory. By EVA MICHELER. [Oxford University Press, 2021. xxxv + 282 pp. Hardback £80.00. ISBN 978-0-19885-887-4.]

Theories of companies abound. On some accounts, the company is a mere fiction ("fiction theories"). Others stress that companies are created through an exercise of state power ("concession theories"). Yet other theories regard companies as merely the aggregate of their members ("aggregate theories"). Most prominent in recent years are "nexus of contracts" theories, which see the company as a nexus for contracts between different participants in the company, such as managers and shareholders. The chief rival to all these theories is the "real theory" (also called the "real entity theory" or "organic theory"), most famously advanced by Otto von Gierke and subscribed to by Frederic Maitland. The real entity theory takes different forms, but its core claim is that companies are real, naturally occurring beings, with characteristics that differ from those of their human members. On this account, the company is no mere legal fiction. It has an independent existence of its own, is created by the association of its members rather than by an act of the state, and it is not just the sum of its parts.

In *Company Law: A Real Entity Theory*, Professor Eva Micheler provides a timely and wide-ranging revival and modernisation of the real entity theory. The book's aims are ambitious: it aims to show that the real entity theory best explains many features of doctrinal English *company law*.

The book's central claim is that "company law can be better understood if we conceive companies as autonomous actors with processes that shape and are shaped by natural actors" (p. 31). Micheler sees this perspective as having two main benefits: first, it "helps [us] to understand the law as it stands", and second, it "allows us to make recommendations at a normative level" (p. 31). Three normative recommendations are advanced over the course of the book: financial incentives should be abandoned as a way of advancing non-director interests, companies should not be required to have statements of their corporate purposes, and that the integration of non-shareholder interests into company law is best done by achieving integrating those interests into the company's decision-making process (pp. 260–61).

Methodologically, Micheler's project of trying to show that English company law can be better understood if we conceive companies as autonomous real social actors is what is sometimes described as an "interpretive" account. As Stephen Smith once explained in a different context, "[i]nterpretive theories aim to enhance understanding of law by highlighting its significance or meaning .... [T]his is achieved by

explaining why certain features of the law are important or unimportant and by identifying connections between those features – in other words, by revealing an intelligible order in the law, so far as such an order exists" (S.A. Smith, *Contract Theory* (Oxford 2004), 5). This approach is distinctly different from that adopted in most contemporary company law scholarship, particularly that from across the Atlantic, where law-and-economics approaches dominate.

In pursuing her aims, Micheler covers much doctrinal ground. The book spans 11 chapters. The first introduces the real entity theory, comparing it to two of its rivals: the nexus of contracts theory and concession theory. The remaining nine substantive chapters each deal with different aspects of company law. In each of these, the aim is primarily to show how the real entity theory explains and helps us understand modern English company law better than its rivals. Included are chapters on corporate personality (ch. 2), the once-fiendishly difficult topic of corporate capacity (ch. 3), limited liability (ch. 4) and corporate actions, namely when the company can sue and be sued in contract, tort and crime (ch. 5). The remaining chapters examine the role of the company's constitution (ch. 6), directors (ch. 7) and shareholders (ch. 8). Chapter 9 deals with enforcement of directors' duties, while Chapter 10 reiterates points developed in earlier chapters which show that non-shareholder stakeholder interests are integrated in various ways into company law.

Some chapters are especially convincing. In Chapter 2, for example, Micheler argues that the law responds to the existing social reality of an organisation by providing it with a formal framework – separate legal personality. Separate legal personality is a long-standing feature of the modern company incorporated by registration since *Salomon v A Salomon & Co. Ltd.* [1896] A.C. 22, but nexus of contracts theories have serious difficulty in explaining its existence.

Likewise, Chapter 5, which deals with the topical question of corporate attribution, provides strong support for Micheler's claim. As Micheler explains, the real entity theory explains the law better than the aggregate theory: "If companies were fictional entities which aggregate contributions we would not trouble with their liability in tort. We would be satisfied with the personal liability of the person acting. But we are not" (p. 82). Likewise, recent developments in corporate criminal liability provide strong support for the real entity theory. Statutes increasingly attempt to impose criminal liability for a company's organisational fault. For example, the Corporate Manslaughter and Homicide Act 2007 provided that the company is guilty of the offence if the way in which its activities are managed or organised by its senior management is a substantial element in the breach. Others, such as the Bribery Act 2010 and Criminal Finances Act 2017, make it a criminal offence to fail to prevent bribery or the facilitation of certain tax evasion offences. These features of the positive law are easily explicable on the basis that companies act autonomously, albeit necessarily through the physical bodies of individuals (for a similar account, see R. Leow, *Corporate Attribution in Private Law* (Oxford 2022)).

However, in some other respects, it might be questioned whether it is so clear that the real entity theory provides a superior account of doctrinal English company law compared to alternative theories. For example, in Chapters 7 and 8, it is shown that, as a matter of English law, "it would be wrong to characterize the directors as agents of the shareholders" (p. 127). The author thus argues that the nexus of contracts theory does not explain the relationships between shareholders and directors under English law. It is undoubtedly correct that directors are not the legal agents of shareholders

under English law, but one might query whether this argument really deals a fatal blow to nexus of contracts theories. Proponents of the latter do not argue that the "contracts" in a nexus of contracts are legally recognised as contracts, nor do they argue that agency conflicts between different constituencies are between parties to genuine agency relationships under English law.

There is also an interesting tension present in the book. The real entity theory has historically not been associated with legal intervention by the state. Instead, those who focus on the state's intervention tend to favour concession or fiction theories. The attempt to use a theory that is essentially based on bottom-up private ordering to explain the shape of legal intervention sometimes causes difficulty. For example, consider Micheler's point in Chapter 4 that legal personality persists until the company is wound up. On the positive law, this is correct. Using the real entity theory to explain it, however, is less straightforward. Micheler argues that the law responds to the social reality of an organisation by providing it with a stable and robust legal personality, thus "providi[ng] for a stable connection point through which an organization can operate autonomously" (p. 74). An implication of the stability of legal personality is that one must await a formal act (winding up) before that legal personality is lost. This analysis provides an account of the doctrine, but it is difficult to say that it is one that is rooted in the real entity theory. The participants involved in the company may have ceased activity long before any winding up. Faithful adherence to the real entity theory would suggest that the company's personality should end once it is, as a matter of organisational reality, defunct. However, this analysis is not reflected by the positive law.

Company Law: A Real Entity Theory is a thought-provoking and original read: it takes one of the most well-known theories of the company and breathes new life into it. It breaks new ground in aiming to show how company law is compatible with a real entity theory. Micheler's accessible but detailed analysis of how company law acknowledges the social reality of companies as autonomous organisations, provides a formal framework for their operation, and supports their decision-making, will be invaluable reading for all who are interested in what companies are, how they work and how best to regulate them.

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Corporate Attribution in Private Law. By Rachel Leow. [Oxford: Hart Publishing, 2022. xxxiv + 246 pp. Hardback £85.00. ISBN 978-1-50994-135-3.]

Rachel Leow's book on corporate attribution in private law makes a very important contribution to company as well as private law in the UK but also more generally the common law world. The author has set herself a formidable task of understanding and explaining corporate attribution across four areas of private law: contract, tort, restitution/unjust enrichment and attribution of knowledge. This task requires her not only to master the attribution rules, but also to have a full and deep understanding of the principled underlying questions and academic debates in each of these four areas. This is no small challenge. Many academic scholars focus on one or perhaps even two of these areas, but few can claim to be familiar with,