ing in Brown *v.* Crandall, *supra*): "It may be added that, independent of sinister misrepresentations, there is scarcely a question upon which common reputation is more fallible. A contract of partnership is in nature incapable of being defined by laymen; and whether an apparent partnership be really so or a contract of some other character is often a most embarrassing legal question with the ablest lawyer. General reputation of the more ordinary contracts, the legal nature and effect of which are understood by men of business in general, would be a much more proper subject of proof by general report; this the law always rejects, and yet I am not aware that there is a necessity for a resort to such proof in the one case more than the other."

Accordingly, it is to-day almost everywhere agreed that reputation is not admissible to prove the existence of a partnership.[1]

But in two other ways reputation may here become admissible. (1) By the substantive law of partnership liability, one holding himself out as partner may be charged as such, though no agreement was actually made; and to suffer a reputation of partnership to exist may in law amount to a holding out; thus, the existence of such a reputation may become itself a fact in issue, irrespective of the truth of the matter reputed:

1889, *Earl*, J., in *Adams* v. *Morrison*, 113 N. Y. 152, 156, 20 N. E. 829: "When there is a general reputation that two or more persons are copartners, and they know it, and permit other persons to act upon it, and to be induced thereby to give credit to the reputed firm, these facts may be proved and may be sufficient sometimes to estop the reputed members of the firm from denying the copartnership in favor of outside parties."

(2) For the purpose of establishing knowledge by a customer of the dissolution of a partnership, the reputation of its dissolution may be admissible as circumstantial evidence of such knowledge (*ante*, § 255).

§ 1625. **Reputation to prove (1) Legal Tradition, (2) Incorporation.** (1) So far as the custom and consent of the *legal profession* is of weight in determining the application of a principle of law, it seems to have been recognized that common opinion or reputation in the profession may be taken as evidence of this custom or consent.[1]

(2) By statute in many jurisdictions, reputation has been made evidence

[1] 1893, Knard *v.* Hill, 102 Ala. 570, 574, 15 So. 345 (excluded); 1900, St. Louis & Tenn. R. P. Co. *v.* McPeters, 124 id. 451, 27 So. 518; 1853, Sinclair *v.* Wood, 3 Cal. 98, 100 (excluded); 1835, Brown *v.* Crandall, 11 Conn. 92, 95 (inadmissible; quoted *supra*); 1871, Bowen *v.* Rutherford, 60 Ill. 41 (excluded); 1809, Bryden *v.* Taylor, 2 H. & J. 396, 400 (reputation held "not sufficient"); 1835, Goddard *v.* Pratt, 16 Pick. 412, 434 (not admitted to show a dissolution); 1842, Grafton Bank *v.* Moore, 13 N. H. 99 (excluded); 1817, Whitney *v.* Sterling, 14 John. 215 (admitted); 1833, M'Pherson *v.* Rathbone, 11 Wend. 96 (same); 1838, Halliday *v.* McDougall, 20 id. 81, 89; 22 id. 264 (held inadmissible, without other evidence; quoted *supra*); 1842, Smith *v.* Griffith, 3 Hill 333, 336 (inadmissible); 1889, Adams *v.* Morrison, 113 N. Y. 152, 156, 20 N. E. 829 (reputation not admissible in any case to prove the fact); 1850, Inglebright *v.* Hammond, 19 Oh. 343 (excluded); 1898, Farmers' Bank *v.* Saling, 33 Or. 394, 54 Pac. 190 (excluded); 1824, Allen *v.* Rostain, 11 S. & R. 362, 363, 373 ("not evidence, except in corroboration of a previous testimony"); 1845, Hicks *v.* Cram, 17 Vt. 449, 456 (inadmissible).

[1] 1761, Buckinghamshire *v.* Drury, 2 Eden Ch. 60, 64 (Lord Hardwicke, L. C.: "The opinion of conveyancers in all times, and their constant course, is of great weight"; here, as to whether an infant is bound by a marriage jointure); 1892, Venable *v.* R. Co., 112 Mo. 103, 125, 20 S. W. 493 ("common consent and opinion of the profession," considered to show that dower may be barred in eminent domain).

Distinguish the reference to mere contemporaneous *usage* as an aid to interpretation: 1821, Packard *v.* Richardson, 17 Mass. 122, 144; 1873, Scanlan *v.* Childs, 33 Wis. 663, 666; and cases cited *post*, § 2464.