

It can scarcely be said that the draftsman is to be congratulated on the skill he displayed in this document.

A great demand set in for the town lots into which the land was divided—they were sold rapidly and such part of the money so received as was thought necessary was expended in expenses—the receipts were approximately \$30,000, the “expenses” \$12,000. McDougall claims that this should be the book-keeping:

McDougall Cr. by $\frac{3}{4}$ of \$30,000.....	\$22,500
Dr. to $\frac{1}{2}$ of \$12,000	6,000
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Balance due to McDougall	\$16,500
Galbraith Cr. by $\frac{1}{4}$ of \$30,000	\$ 7,500
Dr. to $\frac{1}{2}$ of \$12,000	6,000
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	\$ 1,500

Galbraith claims:—

McDougall Cr. by $\frac{3}{4}$ of (\$30,000-\$12,000)	\$13,500
Galbraith Cr. by $\frac{1}{4}$ of (\$30,000-\$12,000)	4,500

The trial Judge gave effect to Galbraith's.

McDougall now appeals.

Much argument was advanced to us upon the question whether the two documents should be read together, or whether the latter entirely superseded the former. It does not seem to me that for the purposes of this case it makes any difference which view is taken; and I do not enter into the enquiry. But I am not to be taken as assenting to the conclusion in that regard of my brother Britton.

Much, too, was said as to whether a partnership was formed or not—that it seems to me is also immaterial—a mere matter of terminology—whether in this case one calls the relations between the two a partnership or a joint enterprise or a common venture, their rights and duties *inter se* are governed by the document they have signed—and these are the only rights and duties we here consider.

The main reliance of the respondent was upon the use of the words “advance” and “profits”—and if “advance” always meant “to pay out money which is to be later repaid,” and “profits” always meant “gain made on any business when both receipts and disbursements are taken into consideration,” there would be foundation for his contention. But “advance” often means “pay” “Words and