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PARTNERSHIP.

Some of the more recent decisions in the United States show that the Courts of the different States still experience considerable difficulty in determining what constitutes a partnership as regards third persons. In *Smith* v. *Knight*, reported in 71 Ill. 148, A agreed to advance money from time to time to B, up to a certain amount, to enable B to carry on business; and B, on his part, agreed to pay interest on the average balance advanced, and also to divide the profits after deducting a fixed sum for expenses; but A was not to bear any losses. Under these circumstances the Court held that A and B were not partners as to third persons. The Court took an entirely different view in *Leggett* v. *Hyde*, 58 N. Y. 272, 17 Am. Rep. 244, in which it was held that the test of partnership is the receipt of the gains of the adventure as profits. Then, again, a view somewhat between these rulings was taken in *Harvey* v. *Childs*, an Ohio case, reported in 28 Ohio, 319, in which the Court expressed itself as follows: "Participation in the profits of a business, though cogent evidence of a partnership, is not necessarily decisive of the question. The evidence must show that the persons taking the profits shared them as principals in a joint business, in which each has an express or implied authority to bind the other." In the last mentioned case, the Court did not overlook *Leggett* v. *Hyde*, but distinguished it on the ground that in that instance there was a continuing trade, from which the authority of the lender might be implied, while in *Harvey* v. *Childs* it was but one transaction, where no credit was contemplated.

WRITTEN v UNWRITTEN JUDGMENTS.

Our contemporary, the *Albany Law Journal*, a few weeks ago, noted it as something strange that a publication in one of the Pacific States should have commenced to report the unwritten judgments of the Court of Appeal, and remarked that, in the State of New York, reporters found quite enough to do in keeping up with the written opinions of the Court of Appeal.

If the reports in the Province of Quebec were to be restricted solely to the written opinions, the number of cases reported, even in the highest Court, would be somewhat limited, for there are judges who seldom put their opinions in writing, even in cases of the greatest importance which are to settle the law on new and intricate points, but who usually content themselves with a verbal explanation of their views. It may be urged, in behalf of this practice, that there are some persons who write with difficulty and constraint, while they have acquired or naturally possess the gift of expressing themselves orally with ease and precision. Were it only the latter who eschewed pen and ink, the practice of delivering an *ex tempore* judgment could readily be excused; but, unfortunately, this is not always the case, and the absence of a written opinion too often marks a hurried examination of the record, the *ex tempore* delivery of the judgment becoming a convenient screen for vagueness of statement.

Seeing that the decisions of the Courts were often *vox et præterea nihil*, the legislature stepped in to require that the recorded judgments should disclose the reasons upon which the Court proceeded. As embodied in the Code of Civil Procedure, Art. 472, the law says that every judgment must mention the cause of action, and in contested cases "it must, moreover, contain a summary statement of the issues of law and of fact raised and decided, the reasons upon which the decision is founded, and the name of the Judge by whom it was rendered."

We are glad to bear our mite of testimony to the fidelity with which many of the recorded judgments conform to this injunction, but that it is often overlooked or neglected is incontestable. Seven years ago, the editors of *La Revue Critique* referred in terms of regret to the failure to comply with the statutory direction. "Combien y a-t-il maintenant d'arrêts de nos Cours qui ne contiennent aucun exposé quelconque des points de droit soulevés? Le nombre en est infini. Tous les jours, des jugements sont portés en appel, sur ce motivé simple et commode: 'Considérant que le demandeur n'a pas prouvé les allégations