

the plaintiffs' solicitor in this matter or in any other, nor does he think it likely, but, as he has not a copy of the evidence, and the commission has not been opened, he cannot say what, if anything, they did.

I think, in these circumstances, the motion must be dismissed with costs to the plaintiffs in the cause, leaving the defendants to avail themselves of their right to make all valid objections at the trial.

J. T. White, for the applicants. *Williams* (Montgomery & Co.), for the defendant *Percy Hughes*, supported the motion. *H. S. White*, for the other defendants stood neutral. *F. Arnoldi*, K.C., for the plaintiff, shewed cause.

Province of Manitoba.

COURT OF APPEAL.

Full Court.]

THOMSON v. WISHART.

[Feb. 21.]

Attorney and client—Agreement to share in amount to be recovered by suit—Law Society Act, R.S.M. 1902, c. 95, s. 65—Maintenance and champerty—What criminal laws of England introduced into Manitoba by s. 12 of the Criminal Code.

Maintenance and champerty had become obsolete as crimes in England in 1870, and s. 12 of the Criminal Code, declaring that the criminal law of England as it existed on 15th July, 1870, in so far as it is applicable to the Province of Manitoba . . . shall be the criminal law of the Province of Manitoba, did not introduce the law of maintenance and champerty considered as crimes into that province. Consequently s. 65 of the Law Society Act, R.S.M. 1902, c. 95, allowing an attorney or solicitor to make an agreement with a client to be paid for his services by receiving a share of what might be recovered in an action is not ultra vires of the Provincial Legislature as trenching upon or intended as a repeal of any provision of the criminal law. Such an agreement, therefore, may be enforced in our courts.

Dennistoun, K.C., and *Young*, for plaintiff. *F. M. Burbidge*, for defendant.