

recovered, as proper charges. In *Re Johnston*, 3 O. L. R. 1, a somewhat similar case,  $4\frac{1}{2}$  per cent. appears to have been allowed by Mr. Thom. It is argued that, if the amount is fixed on a commission basis, allowance must be made for the services of the solicitors who were employed in connection with the matter prior to the retaining of plaintiffs. This is, no doubt, to some extent true. Plaintiffs obviously must not get credit for work they did not do. The result, however, accomplished with the assistance of Messrs. Fraser and Lewis, had only an indirect bearing on the recovery of the amount secured through plaintiffs; though the work of Messrs. Belcourt and Watson certainly contributed very materially towards bringing about the final result. If plaintiffs had had all to do with the matter from the first, they would, I think, have been entitled to more than  $2\frac{1}{2}$  per cent. of the amount recovered, whereas their claim in fact amounts to much less. Two and a half per cent. of the amount recovered would be \$3,902.21. This includes nothing for the \$40,000 concrete claim, and takes no account of the special difficulty of putting through the claim for interest and costs, with the securing of which no other solicitor had to do. Mr. D. O'Connor, a solicitor of wide experience in such matters, gives it as his opinion that the securing of interest from the government is so difficult that 5 per cent. of the amount recovered is no more than fair remuneration for the work entailed. If the commission on the interest and costs were put at 5 per cent., it would bring the total up to \$4,624.74. an amount greater by \$1,100 than the sum actually claimed. It must not be forgotten, however, that the amount involved, like the time occupied, is only one of the elements, though perhaps the most important element, to be considered. No hard and fast percentage can be fixed, just as no hard and fast charge per hour can be fixed. All the circumstances must be looked at and an amount arrived at which will on the whole be fair compensation for the services rendered.

After a careful consideration of all the facts, I have come to the conclusion that plaintiffs' charge of \$3,500 is fair and reasonable, and that they are entitled to recover from defendants the balance of \$1,227 claimed, with costs.