

"gains" for reimbursement of his costs, or such part of them as may not be recoverable from the opposite party. Yet that could hardly be considered to be champertous even though it were the subject of an express agreement.

In the case under consideration it does not appear that the solicitor sought out the client or was in any way the original promoter or mover of the suit; but simply that when the client came with his case, the bargain was made for remuneration over and above the taxable costs, proportioned to the amount which might ultimately be recovered. Did that constitute a bringing of the suit at his own proper costs to have part of the "gains"? Again, it can scarcely be said that to proportion costs to the amount recovered is in itself champertous, inasmuch as the Court has itself sanctioned what the Chancellor thus calls champerty by fixing the costs of administration and partition proceedings on the basis of the value of the estate in question. We must therefore dissent from the finding of the learned Chancellor as to the alleged champertous aspect of the case.

The method of regulating remuneration by the amount of the property or damages involved has, moreover, been expressly sanctioned in the Province of Ontario by the legislature in regard to conveyancing and other non-contentious business. R. S.O. c. 174, s. 52, authorizes the judges of the Supreme Court of Judicature to make rules as regards the remuneration of solicitors for non-contentious business and expressly provides that this may be "according to a scale of rates of commission or percentage." To fix costs proportionately to the amount recovered has therefore, in these later years, received both legislative and judicial sanction. Let us assume that the case referred to in the beginning of this article had been settled without litigation, the agreement would have been valid under section 54, and the only question would have been whether or not, under the circumstances, it was reasonable. To bargain for more than taxable costs may be illegal, but it cannot be said to be necessarily champertous, even though such extra costs