

the assignment of choses in action and enables the assignee to sue for their recovery in his own name, and it is clear that an assignee suing in his own name cannot be guilty of "maintenance." Under the Act a man may validly assign a chose in action in trust for himself (the assignor), and the assignee may lawfully sue for its recovery and it was so determined by the English Court of Appeal in *Fitzroy v. Cave* (1905), 2 K.B. 346; 93 L.T. 499. If a man may lawfully assign the whole chose in action in trust for himself why may he not assign part to the assignee for his own use and part in trust for himself (the assignor)? According to this decision in *Colville v. Small* this constitutes "champerty."

Champerty as the derivation of the word imports would seem originally to have applied to real actions, and the common law had to be supplemented by the statute against buying feigned titles, which has since been repealed. Formerly a mere right of entry could not be purchased so as to enable the purchaser to sue for the recovery of possession in his own name, but now it may. We have a statutory definition of "champertors" and a declaration that "champerty" is illegal, but the Act is merely declaratory of the common law, according to the Act (R.S.O. c. 327): "Champertors be they that move pleas and suits, either by their own procurement or by others, and sue them at their own costs, for to have part of the land at variance, or part of the gains."

This statutory definition of "champertors" appears to include as an essential part of the definition, the bringing or promoting of a suit in the name of some other person; "maintenance," therefore, seems to be an essential part of the offence of "champerty," and although there may be "maintenance" without "champerty" it does not seem possible according to the statutory definition of a champertor that there can be "champerty" without "maintenance," except, perhaps, in the case of a solicitor.

In short, as was said by Davis, J. in *Meloche v. Deguire*, supra, "champerty is defined to a species of which 'mainten-