

WINCHESTER, MASTER.

MARCH 27TH, 1903.

CHAMBERS.

RE SOLICITOR.

Solicitor—Application for Delivery of Bill—Security for Costs—Applicant out of Jurisdiction—Solicitor Setting up Champertous Agreement—Præcipe Order—Setting Aside—Order for Delivery of Bill.

Application by John Allen to set aside a præcipe order requiring him to give security for the solicitor's costs of an application for delivery and taxation of bills of costs. The original application for the order for delivery and taxation was brought on at the same time. The applicant resided at the time of the application in the United States of America. He employed the solicitor to act for him in connection with certain litigation relating to land in the county of York, at a time when he (the applicant) lived in this Province. The solicitor stated that in 1897 the applicant was indebted to him in \$400 costs and disbursements in a High Court action, and sundry small book accounts, and that there was then an action of ejectment pending between the applicant and his son to obtain possession of the land mentioned; that the applicant having no means to pay the costs or to furnish funds to carry on the litigation, it was agreed between the solicitor and the applicant that the land should be leased and the rents paid to the solicitor in full of his costs, etc.

T. H. Lloyd, Newmarket, for applicant.

J. W. McCullough, for solicitor.

THE MASTER.—The solicitor has brought himself, if not within the decisions as to champerty and maintenance, perilously nearly so. *Wood v. Downes*, 18 Ves. 120, *James v. Kerr*, 40 Ch. D. 449, *Hall v. Hallet*, 1 Cox (Ch.) 135, *Carter v. Palmer*, 8 Cl. & F. 705, Ex. p. *James*, 8 Ves. 337, *Luddy's Trustee v. Praed*, 33 Ch. D. 500, *Robertson v. Furness*, 43 U. C. R. 143, *Locking v. Halsted*, 16 O. R. 32, *London Mutual Fire Ins. Co. v. Jacob*, 16 A. R. 392, and authorities cited in the last case, referred to. The transactions between the solicitor and his client are, upon the solicitor's own admissions, of such a character as to warrant the client in asking the Court to investigate them. The solicitor was entitled under Rule 1199 to a præcipe order for security for costs, as it appeared on the face of the notice of motion that the applicant did not live in the jurisdiction. But the facts of this case entitle the applicant to have the præcipe order set aside: *Sample v. McLaughlin*, 17 P. R. 490. Order made