

REVIEW OF CURRENT ENGLISH CASES.

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SOLICITOR—BILL OF COSTS—RETAINER TO CONDUCT LITIGATION—
SUBSEQUENT CHAMPERTOUS AGREEMENT—ILLEGALITY—CHAM-
PERTY.

Wild v. Simpson (1919) 2 K.B. 514. This was an action by a solicitor to recover a bill of costs. The defendant contested the action on the ground that after a retainer to conduct litigation on the usual terms, the plaintiff had made a champertous agreement with the defendant whereby he was not, in case the action did not succeed, to look to the defendant for anything but disbursements, and if the action succeeded he was to get a percentage on the amount recovered. In the result the defendant recovered judgment for a large sum. The plaintiff claimed to be entitled to recover under the original retainer his taxable costs, and that he was not to be prejudiced by the subsequent illegal agreement. Rowlatt, J., who tried the action, gave judgment in favour of the plaintiff; but the majority of the Court of Appeal (Bankes and Atkin, L.JJ.) reversed his decision, but Duke, L.J., dissented. The majority of the Court thought that the original retainer had been so varied by the subsequent agreement that the plaintiff was compelled to have recourse thereto, and that the plaintiff's claim thereby become so tainted with illegality that he could not recover anything. Duke, L.J., on the other hand, thought that though the champertous agreement was illegal, the plaintiff might nevertheless recover his proper taxable costs and that the defendant's right to be relieved from the champertous agreement depended on himself "doing equity," which in this case would be payment of taxable costs. Atkin, J., we may observe, remarked that as a retainer is a retainer for a complete action, if the solicitor before it is complete is prevented, by an illegal agreement, from completing the services lawfully, he cannot even recover on a *quantum meruit*, and he said: "If a cab is engaged to drive to a particular destination and halfway the driver is informed by his fare that he is proceeding thither to execute a burglary, and the driver proceeds, can he recover the fare, or half of it? I think not." As a large amount is at stake, the case may possibly be carried further.