

money for the servant in an action relating to land, unless he have some of his wages in his hands, and the servant consents to their application in that manner, Bro. Tit. *Maintenance* 44, 52; Hawk. P.C., c. 27, ss. 31-33, and see *Elborough v. Ayres*, 10 Eq. 367. A servant cannot lawfully lay out his own money to assist his master in a suit, 1 Hawk. P.C., c. 27, s. 34. But in a very recent case it has been held that any one may assist a poor man with money as a matter of charity to enable him to maintain or defend a suit, *Harris v. Briscoe*, 17 Q.B.D. 504; 55 L.T.N.S. 14. A solicitor when specially retained may lawfully defend, or prosecute an action, and lay out his own money in a suit: 2 Inst. 564, Bac. Abr. Tit. *Maintenance* (B) 5; 1 Hawk. P.C., c. 27, ss. 28-30. Where a similar demand is made against several persons they may, without being guilty of maintenance, combine together for the purpose of resisting the demand, *Findon v. Parker*, 11 M. & W. 675; and see *Gowan v. Nowell*, 1 Me. 292; *Plating Co. v. Farquharson*, 17 Chy.D. 49.

The fact of relationship between the parties, although it may justify the aiding with money or with assistance in carrying on or defending a suit, will not justify that species of maintenance called Champerty. Where two cousins entered into an agreement whereby it was arranged that one of them should bring a suit to contest a will purporting to make a former will, on the understanding that the other of them would share with the plaintiff in the proposed action half the estate recovered thereby, it was held that the agreement was void in champerty, notwithstanding the relationship of the parties: *Hulley v. Hulley*, L.R., 8 Q.B. 112.

The fact of a person having a direct interest in the subject matter of litigation justifies him in assisting a party in prosecuting or defending an action: but it is doubtful whether an indirect interest is sufficient. In *Langtry v. Dymoulin*, 7 O.R. 644, the Divisional Court of the Chancery Division was divided in opinion as to whether, in an action against a rector affecting the endowment of his church, the vestry and churchwardens of the church were entitled to carry on the litigation in the rector's name on an agreement to indemnify him against the costs. Subsequently the vestry and churchwardens applied to be made formal defendants in the action, which was refused by the Court of Appeal: 11 App. R. 544, but the application was afterwards granted by the Supreme Court. It would therefore appear that the weight of authority is in favor of the view that the vestry and wardens had not the right lawfully to carry on the defence in the rector's name; otherwise it would not have been necessary for them to apply to be made defendants. But even where there is an unlawful agreement for maintenance, the plaintiff's action cannot be stayed on that ground; thus an agreement by an association of persons with whom a petitioner was connected, to pay the costs of an election petition was held not to warrant the Court in staying the proceedings: *North Simcoe Election—Edwards v. Cook*, 1 H.E.C. 617. But though a suitor cannot be debarred from his right to prosecute his suit on the ground of the existence of an agreement for maintenance, yet it would seem clear that the agreement could not be enforced by the suitor against those who had agreed to maintain him; see *Wallis v. Duke of Portland*, 3 Ves. 494. In