

repealed in England in 1863 by the Statute Law Amendment Act, but it appears to be still in force in Ontario.

England and her colonies have acquired justly a pre-eminent distinction as law-abiding communities; and if we take the trouble to search into the matter we shall find that the secret of this universal respect for law and the judicial tribunals, which prevails throughout the British dominions, is due in a great measure to the salutary checks and safeguards which were placed about the administration of the law in bygone days, and which had the effect of inspiring all classes of the people with confidence that the law would be fairly and justly administered so far as that ever could be secured by human means. It was, no doubt, to this anxiety to ensure respect for the law of the land and the tribunals by which it was administered, and also as a necessary corollary of the well-known maxim of the civil law, "*interest rei-publicæ sit finis litium*," that the laws relating to maintenance came into being. In the early days of our history it was, and no doubt justly, considered detrimental to the impartial administration of justice, that any person not of kin to the litigants in a court of justice should appear even in court with them publicly to espouse their cause, to plead for them or even to ask others to be of counsel for them. And one can readily understand that a powerful and influential man might, by an ostentatious intervention in support of the cause of another, be the means of over-awing or exercising thereby an undue influence over judge and jury in a semi-barbarous age, so as to induce them to depart from the strict line of duty—and even if judge and jury were impervious to such assaults upon their integrity, it would nevertheless be difficult to convince a losing suitor that they had been so. Many acts, however, which in the early period of our history were deemed maintenance, would probably in the altered circumstances of our civilization, no longer be held to be so. Recent cases both in our own and in the English courts have clearly established that maintenance as an offence still exists, and though the punishment of it by criminal proceedings may have fallen into disuetude, it nevertheless still constitutes a good cause of action for damages to the person injured.

It may be useful, therefore to inquire what, according to the modern authorities, constitutes this offence, and how redress is given when it has been committed.

In Bacon's abridgment we find it is laid down that whoever is of kin, or godfather, to either of the parties, or related to them by any kind of affinity still continuing, may lawfully stand by at the bar and counsel him, or pray another to be of counsel to him, and a barrister-at-law may plead the cause of his client; but none of these may lawfully aid the party with money in the cause, unless he stand in the relation of father, or son, or heir apparent, or husband to the party, see Bac. Abr. Tit. *Maintenance* (B); 1 Hawk. P.C., c. 27, s. 26. A landlord it would seem may aid with money his tenant in defence of the tenant's title to the land demised, but not as regards other lands not holden of himself, 1 Hawk. P.C. c. 27, s. 29.

A master may also aid his servant by counsel and advice, and even with money to keep him out of prison; but it would seem he cannot safely lay out