North Carolina Argus.

JOHN W. CAMERON, PUBLISHER. This Argus o'er the People's rights doth an eternal vigil keep: No soothing strain of Maia's Son can lull his hundred eyes to sleep. TERMS: TWO DOLLARS IN ADVANCE.

Vol. VII. Fayetteville, N. C., Wednesday, March 1, 1854. No. 6.

The North Carolina Argus

IS PUBLISHED WEEKLY, BY

JOHN W. CAMERON,

EDITOR AND PROPRIETOR.

TERMS OF THE PAPER:

Two Dollars in Advance;

Two Dollars and Fifty Cents if paid during the year;

Three Dollars if not paid before the expiration of the year of subscription.

No subscription received for a less period than one year, unless paid for in advance.

No paper discontinued until all arrearages are paid, unless at the option of the Editor.

Those wishing to discontinue their papers at the end of the year, must notify the Editor of their intention two weeks before the expiration of the year, otherwise the paper will be continued to their addresses, and charged according to the above rates.

☞ All Letters to the Editor, to insure attention, must be post-paid.

RATES OF ADVERTISING:

Sixty Cents per Square for the first, and Thirty Cents per Square for each subsequent, insertion—unless the advertisement be continued for more than two months—when it will be charged,

For three months,	$4 00
For six months,	6 00
For twelve months,	10 00

Professional and Business Cards not exceeding five lines in length will be inserted for Five Dollars a year—longer ones in proportion.

Advertisers must state the number of lines they wish their advertisements inserted, otherwise they will be continued till forbidden, and charged accordingly.

☞ Sixteen lines or less (Brevier) make a Square.

Shemwell House,

Fayetteville, N. C.,

East side Green Street, a few doors North of the Market House.

The Subscriber begs leave to announce to the citizens of Fayetteville, and the travelling public, that he has just finished and opened his House, for the reception and entertainment of any who may wish permanent or transient Board.

His Rooms are large and comfortable, and his Table shall always be furnished with the best the market will afford. He also has good and trusty Ostlers, who will attend faithfully to this department of the business. No pains will be spared to make those comfortable who may favor him with their patronage,—a share of which is respectfully solicited. Charges shall be moderate.

P. SHEMWELL.

February 15, 1854. 7tf

Thomas J. Johnson,

HAS just received, and offers for sale,

10 Bbls. extra New Orleans Molasses,
5 " " " Syrup,
10 " Mess Pork,
5 Hhds. new crop N. Orleans,
North Carolina and Western Bacon,
Blacksmiths' Tools, Simplets

Together with a varied stock of

Groceries, Hardware, and Dry Goods

Which will be exchanged for country produce, cash, or good paper.

—ALSO—

A heavy stock of Boots and Shoes, some very fine.

Also, fine Drab Coats and Pants, Satin and other Vests, Shirts, &c., &c.

Also, Distillers' Grain, and Seed Oats.

THOS. J. JOHNSON.

Feb'y 18, 1854. 7tf

NEW GOODS.

The Subscribers are now receiving into Store a large and general

STOCK OF GOODS,

Which will be sold at wholesale or retail at small profits. Their stock embraces St. Croix, Porto Rico, Muskovado, and New Orleans Brown Sugars; A B and C coffee Sugars; Loaf, Crushed and Powdered do; Fine and common Teas; Java, Laguira and Rio Coffee; Pepper, Ginger, Allspice, Alum, Epsom Salts, Brimstone, Indigo, Madder, Adamantine and Sperm Candles, Snuff, ground Mustard, sup. carb Soda, fancy and bar Soap, Camphor, Borax, Cider Vinegar. Mackerel in whole and half barrels and kits, Mess Pork, Molasses, Syrup, Sack Salt, Broad and Club Axes; Turpentine Axes, Hackers, Scrapers and Dippers; Pocket and Table Cutlery; Shovels, Spades and Forks; broad and common bar Iron, Steel, Nails and Spikes, Weeding Hoes, Hollow-ware, large assortment; Blacksmith's Tools, Funnels, Corn Shellers and Straw Cutters, Hats, Shoes, and Domestic Dry Goods, with almost every article usually to be found in this market.

GEO. W. WILLIAMS & CO.

February 16, 1854. 7tf

Worth & Utley,

Forwarding and General Commission Merchants,

FAYETTEVILLE, N. C.

J. A. WORTH. JOS. UTLEY.

February 20, 1854. 7tf

JOHN WINSLOW,

Attorney at Law.

Office over Dr. Hinsdale's Drug Store, corner of Hay Street and Market Square,

FAYETTEVILLE, N. C.

February, 1854. 7-Y

On Consignment.

20 hhds. New-Crop Molasses,
15 cases Ross Aromatic Sainpagne,
15 " Old Nectar Whiskey (8 yr.),
1 cask French Brandy,
2 " Madeira Wine,
2 " Port "
1 " Malaga "

C. E. LEETE.

Feb. 22. 7-2t

SALEM STAGE.

THE SALEM STAGE, by Plank Road, through Carthage and Ashborough, will leave Fayetteville on Monday, Wednesday, and Friday, at 6 o'clock, P. M., and arrive at Salem on Tuesday, Thursday, and Saturday, at 5 o'clock, P. M.

Returning, it will leave Salem on Sunday, Tuesday, and Thursday, at 6 o'clock, P. M., and arrive in Fayetteville next days at 5 P. M.

This Stage is in connection with the Warsaw Stage. Through Tickets from Salem to Warsaw for $12.

M. McKINNON.

Feb'y 15, 1854. 7tf

Just Received and for Sale,

20 Bbls. No. 3 Mackerel,
10 Kits No. 1 "
10 " " Salmon,
200 Lbs. Cod Fish,
20 Boxes Cheese,
5 " Adamantine Candles,
20 " Tallow "
5 " No. 1 Soap,
10 " Soda Crackers,
2 Hhds. Brown Sugar,
5 Bbls. Crush and Granulated Sugar,
Buckwheat Flour in 25 lb. Sacks,
Pickles, Rice, Saleratus and Yeast Powders.

ALSO—3 Doz. Turpentine Axes. By

W. H. CARVER.

Feb'y 7, 1854. 37 5tf

NEW BAKERY.

THE Subscriber has established a Bakery on Bow Street, on the Lot two doors East of Duncan McNeill's Cabinet Shop. He is prepared to furnish Families, Boats, and the public generally, with Bread, Biscuit, and Cakes of various kinds, of the best quality, as he has procured the services of one of the best Bakers in the State.

Prices reasonable. Give me a call.

CHARLES BANKS.

Fayetteville, January 16, 1854. 2tf

Call and See.

THE Subscriber has on hand, at the old stand of C. A. McMillan, opposite the Bank of Cape Fear, a general and well assorted stock of

Dry Goods, Hats, Caps, Bonnets, Boots and Shoes, Saddlery, Groceries, &c., &c.

Also, a large assortment of Brass-Mounted Clothing. Always on hand, a lot of fine Chewing Tobacco. Also, a supply new crop MOLASSES.

All of which will be sold cheap for cash.

W. S. FOWLKES.

January 24, 1854. 3tf

Dr. Morse's

INVIGORATING CORDIAL.

A PHENOMENON IN MEDICINE.

Health Restored and Life Lengthened by Dr. Morse's Invigorating Elixir or Cordial.

AT first the properties attributed to Prof. Morse's Invigorating Elixir or Cordial were deemed fabulous. The public, often deceived, could not believe the simple and sublime truths announced by the discoverer.—But facts, undeniable facts, attested by witnesses of the highest class and character, are now triumphing over all doubts. Incredulity is overthrown by a mass of testimony which is perfectly irrefutable.

The Elixir remedies, in all cases, the deplorable evils arising from a misuse or abuse of the various organs which make up the wonderful machine called Man. It restores to full vigor every delicate function connected with that mysterious compound agency of matter and mind, necessary to the reproduction of human life. To persons of feeble muscular frame, or deficient in vital power, it is recommended as the only means of communicating that energy which is necessary to the proper enjoyment of all the natural appetites, as well as of the higher mental attributes. Its beneficial effects are not confined to either sex or to any age. The feeble girl, the ailing wife, the listless, enervated youth, the overworn man of business, the victim of nervous depression, the individual suffering from general debility or from the weakness of a single organ, will all find immediate and permanent relief from the use of this incomparable restorative. To those who have a predisposition to paralysis, it will prove a complete and unfailing safeguard against that terrible malady. There are many, perhaps, who have so trifled with their constitutions, that they think themselves beyond the reach of medicine. Let not even these despair. The Elixir deals with disease as a cause, without reference to cause, and will not only remove the disorder itself, but

Rebuild the Broken Constitution.

Whenever the organs to be acted upon are free from malformation or structural diseases, it is averred that

Morse's Invigorating Elixir

will replace weakness with strength, incapacity with efficiency, irregularity with uniform and natural activity, and this not only without hazard of reaction, but with a happy effect on the general organization. ☞ Bear in mind that all maladies, whatever they begin, END with the nervous system, and that the prostration of the nerves of motion and sensation is PERSONAL DEATH. Bear in mind, also, that for every kind of nervous disease, the Elixir and Cordial is the only reliable preparation known.

Cure of Nervous Diseases.

No language can convey an adequate idea of the immediate and almost miraculous change which is occasioned in the feeble, debilitated and distracted nervous system, whether broken down by excess, weak by nature, or impaired by sickness, the exciting and relaxed organization is at once braced, tranquilized and built up. The mental and physical symptoms of nervous diseases vanish together under its influence. Nor is the effect temporary; on the contrary, the relief is permanent, for the earliest perception of the medicine reach the constitution itself, and restore it to its normal condition.

Loss of Memory,

Confusion of ideas, rush of blood to the head, melancholy, mental debility, hysteria, wakefulness, thoughts of self-destruction, fear of insanity, hypothondriasis, dyspepsia, general prostration, irritability, nervousness, inability to sleep, diseases incident to females, decay of the propagating functions, mesmerism, vague terrors, palpitation of the heart, lethargy, consumption, etc., etc., from whatever cause arising, it is, if there is any reliance to be placed on human testimony, absolutely infallible.

A Great Medicine for Females.

The unparalleled efficacy of this great restorative in all complaints incident to females, mark a new era in the annals of medicine. Thousands of abominable frauds have been invented—thousands of irreparable concoctions—all pretending to be specifics in the various diseases and derangements to which the delicate formation of woman renders her liable.

Every Woman of Sense,

who suffers from weakness, derangement, nervousness, tremors, pains in the back, or any other disorder, whether peculiar to her sex, or common to both sexes, to give the invigorating cordial a trial.

Married Persons,

or others, will find this Cordial, after they use a bottle or two, a thorough regenerator of the system. In all directions are to be found the happy parents of healthy offspring, who would not have been so, but for this extraordinary preparation. And it is equally potent for the many diseases for which it is recommended. Thousands of young men have been restored by using it, and not in a single instance has it failed to benefit them.

Persons of Pale Complexion,

or consumptive habits, are restored, by the use of a bottle or two, to health and vigor, changing the skin from a pale, yellow, sickly color, to a beautiful florid complexion.

To the Misguided.

These are some of the sad and melancholy effects produced by early habits of youth, viz: weakness of the back and limbs, pains in the head, dimness of sight, loss of muscular power, palpitation of the heart, dyspepsia, nervous irritability, derangement of the digestive functions, general debility, symptoms of consumption, &c.

Mentally, the fearful effects on the mind are much to be dreaded. Loss of memory, confusion of ideas, depression of spirits, evil forebodings, aversion to society, self-distrust, love of solitude, timidity, &c., are some of the evils produced. All thus afflicted,

Before contemplating Marriage,

should reflect that a sound mind and body are the most necessary requisites to promote connubial happiness; indeed, without these, the journey through life becomes a weary pilgrimage, the prospects hourly darken the view; the mind becomes shadowed with despair, and filled with the melancholy reflection, that the happiness of another becomes blighted with your own.

Constitutional Debility.

All who have injured themselves by private and improper indulgences, will find in this cordial a sure relief.

Impotence, weakness of the genital organs, loss of virile power, is the penalty most frequently paid to those who give a loose rein of license to their passions. Young persons are too apt to commit excesses from not being aware of the dreadful effects.

CAUTION.

Dr. Morse's Invigorating Cordial has been counterfeited by some unprincipled persons.

In future all the genuine Cordial will have the proprietors fac-simile pasted over the cork of each bottle, and the following words blown in the glass:

"Dr. Morse's Invigorating Cordial,
C. H. Ring, Proprietor, N. Y."

☞ The Cordial is put up, highly concentrated, in pint bottles.

☞ Price $3 per bottle, two for $5, six for $12.

C. H. RING, Proprietor, 192 Broadway, N. Y.

Sold by Druggists throughout the United States, Canadas, and West Indies.

AGENTS.

Fayetteville—J. N. SMITH.
Newborn—J. W. CARMER.
Petersburg—TODD & CHRISTIAN.
Norfolk—M. A. SANTOS & SON.

POETICAL.

"Ranged on their hill Harmonia's daughters swell
The mingling tones of horn, and harp, and shell."

WISHING.

BY JOHN G. SAXE.

Of all amusements for the mind,
From logic down to fishing,
There never was one that you can find
So very cheap as "wishing."
A very choice diversion, too,
If we but rightly use it,
And not as we are apt to do,
Pervert it and abuse it.

I wish—a common wish indeed—
My purse was something fatter,
That I might cheer the child of need,
And not my pride to flatter;
That I might make oppression reel,
As only gold can make it,
And break the tyrant's rod of steel,
As only gold can break it.

I wish—that Sympathy and Love,
And every human passion
That has its origin above,
Would come, and keep in fashion;
That Scorn, and Jealousy, and Hate,
And every base emotion,
Were buried fifty fathoms deep
Beneath the waves of Ocean!

I wish—that friends were always true,
And motives always pure;
I wish the good were not so few,
I wish the bad were fewer;
I wish that parsons never forgot
To mind their own teaching;
I wish that practising were not
So different from preaching!

I wish—that modest worth might be
Approved with truth and candor;
I wish that innocence were free
From treachery and slander;
I wish that men their vows would mind
That women won't wear crinoline
I wish that wives were always kind,
And husbands always loving!

I wish—in fine—that joy and mirth,
And every good thing,
May come, 'ere while, throughout the earth,
To be the glorious King;
Till God every creature bless
With His supreme blessing,
And hope be lost in happiness,
And wishing be possessing!

ANSEL H. BARNES AND WIFE AGAINST WILLIAM R. STRONG.

A contract between a father and son, made during the pending of a suit against the father, whereby the son agrees to defend the suit for the father, in consideration of receiving a part of the property in controversy, in case of success, is void, as coming within the prohibition of the common law against champerty.

A specific relief will be granted under a general prayer, where such relief is consistent with the specific relief prayed, and according to the admitted facts in the case.

Cause removed from the Court of Equity of Rockingham county, at the fall term, 1853.

An action of detinue was pending in the Superior Court of Law of Rockingham, in the name of John C. Mengus, trustee of A. D. Jones, against one Robert Strong, for the recovery of several slaves. During the pendency of this suit, Robert Strong and his son, William R. Strong, the defendant, entered into a contract in writing, of which the following is a copy:

"Memorandum of an agreement made and entered into, this 25th day of May, 1848, between Robert Strong on the one part, and William R. Strong of the other part, all of the county of Rockingham, of the State of North Carolina, To wit: That, whereas, there is now pending a certain suit in the Superior Court of Rockingham, in which A. D. Jones and others are plaintiffs, and the said Robert Strong defendant, for the recovery of the following negroes, namely, (seven in number,) with their increase, and the said Robert Strong, feeling his inability, from age and bodily infirmities, of paying the attention necessary to defend the said suit successfully, agrees to give to the said William R. Strong, for, and in consideration of his services, in personally attending to the said suit, assisting to make a successful defence, and for the further consideration of five dollars to him in hand paid, the receipt whereof is hereby acknowledged, one-half of said negroes with their increase, after paying all expenses of said suit: said William R. Strong agrees to pay strict attention to said suit to a successful termination. In witness whereof, the above mentioned parties have hereunto set their hands and affixed their seals, this day and date above written.

ROBERT STRONG, [SEAL.]
WM. R. STRONG, [SEAL.]

(Two witnesses.)

On the same day, very shortly after the execution of this instrument, Robert Strong made and published his last will and testament, and died a short time afterwards.—The will was duly proved and recorded. By his will, Robert Strong gives to William R. Strong a tract of land, of 327 acres, all his stock, his furniture, plantation tools, the crop that might be growing at his death, and two negroes, Anderson and Tempe. After giving his daughter, Janet Roberts, a legacy of fifty dollars, and to his daughter, the plaintiff Mary, a negro girl named Caroline, he directs that the negroes Tab, &c., (fourteen in number, including by name the seven mentioned in the contract which has been recited,) with their increase, and all the residue of his estate, shall be sold by his executors; that his debts be collected, and, after paying the debts owing by him, and the pecuniary legacy of fifty dollars to Mrs. Roberts, the proceeds are to be divided equally between plaintiff Mary Barnes, and defendant William R. Strong. The latter, with one Burton, were appointed executors of this will, but only the defendant qualified, the other having renounced. The action of detinue (Mengus v. Strong) shortly afterwards, and about the time of Robert Strong's death, was decided against the defendant, in the Superior Court of Rockingham; but before execution could be had against him, William R. Strong, as executor, filed a bill for an injunction, which was brought to this Court, and on the hearing of the cause, was made perpetual, by which the contest with Mengus was finally decided in favor of William R. Strong, as executor.

The bill alleges that all the property of the testator, (excepting two slaves that had been sold in his lifetime,) including the slaves mentioned in the agreement with him as well as the increase, excepting the girl Caroline, which was delivered to plaintiff, and all the other property of the testator, are held by the defendant, as executor; that the negroes have been hired out, and two of them sold by the executor, and the money, as well for those sold by testator, as by himself, collected by him. The plaintiffs insist that the agreement entered into between Robert Strong and his son, Wm. R. Strong, is against the policy of the laws of North Carolina, and void for *champerty*, and they are, by the will of their father, entitled to one-half of the residue of the estate, after paying the debts and the pecuniary and specific legacies.

The prayer of the bill is for an account and that one-half of the residue of the personal estate, after satisfying the legacy to Janet Roberts, may be paid to the plaintiffs, and that the slaves not sold may be sold and the money divided, or the slaves themselves divided equally between plaintiffs and defendant William; also for general relief.

The answer sets forth more distinctly the reasons and considerations upon which the agreement in question was made—the great trouble and expense in defending the law-suit for his father, and the diligence with which he protected the interests of the estate, and he now insists that these facts, with the additional fact that he is the son of Robert Strong, the other contracting party, take his case out of the rule of law, avoiding contracts for champerty. There was much other matter in both the bill and answer, but sufficient is set forth to present the questions upon which the opinion of the Court is based.

There was replication and proofs taken as to the points not involved in the opinion; cause set for hearing and removed to this court.

Miller, for plaintiffs.

J. T. Morehead, for defendant.

Argued that the bill contains no prayer for particular relief; it is only that the slaves be sold or divided at their option, and then follows the prayer for general relief. There is no prayer that the conveyance of 25th May, 1848, be declared void. Under the prayer for general relief, the particular relief, which the case requires, may at the hearing be prayed at the bar. This may be conceded, but no case can be found where the relief granted is inconsistent with or broader than the premises.—Mit. plea. 31, 2 Madd. Chan. 171-2, Lord Walpole v. Lord Oxford, 3 Ves. 416; Grice v. French, 2 Atk. 141; Foster v. Cook, 1 Hawks 516.

Should the Court, however, be of opinion that the particular relief prayed for at the bar can be granted, it is submitted that the facts of the case do not warrant such relief. The contract between the father and son is not void as against law. Roscoe on Crim. Ev. 549, Avery v. Huby, 14 Peck. 174; Allaire v. Outlaw, 2 John's Ca. 52; Coventry v. Bainton, 17 John. Rep. 141.

We are indebted to the Reporter of the Supreme Court for the following able and interesting Decision of Judge Battle, in the above case:

Battle, J.—The pleadings in this cause present for consideration a question which has not hitherto, so far as we know, been decided in this State. The question is, whether a contract between a father and son, made during the pendency of a suit against the father, whereby the son agrees to defend the suit for the father, in consideration of receiving a part of the property in controversy in case of success, is void, as coming within the prohibitions of the common law against maintenance and champerty.

We have given to the subject that attention which its importance, as well as its novelty, requires, and our reflections have brought us to the conclusion that the contract is against the settled policy of the law, and therefore cannot be upheld. Sergeant Hawkins, whose definitions of these offences are adopted, mainly, by all the later writers on the subject, says, that "maintenance is commonly taken in an ill-sense, and in general seemeth to signify an unlawful taking in hand, or upholding of quarrels or sides, to the disturbance or hindrance of common right."

Maintenance in a court of justice, is "where one officiously intermeddles in a suit depending in any such court, which no way belongs to him, by assisting either party with money, or otherwise, in the prosecution or defence of any such suit.—1 Hawk. P. C., ch. 27; Tit. Maintenance.

"Champerty is the unlawful maintenance of a suit, in consideration of some bargain to have part of the thing in dispute, or some profit out of it."—Ibid., Tit. Champerty. "These offences are of the same nature, the latter being an aggravated species of the former, and are both punishable at common law, as well as forbidden by various statutes."—1 Hawk. P. C., Tit. Maintenance, sec. 38. Champerty, sec. 1. Roscoe's Cr. Ev., Tit. Maintenance, &c. 4 Blackstone Com., 135.

Champerty being an offence thus prohibited at common law, as well as by statute, any contract or bargain into which it enters, as one of the elements, must necessarily be void, as being founded upon an illegal consideration. Accordingly, we find that, in England, the courts, both of law and equity, have refused to give effect to such contracts, and the latter courts have even give relief against instruments which, they said, savored of champerty. Thus, at law, it was held that an agreement to communicate such information as should enable a party to recover a sum of money by action, and to exert influence for procuring evidence to sustain the claim, upon condition of [illegible] portion of the sum recovered, was illegal.—Stanley v. Jones, 7 Bing. 369—(20 Eng. C. L. Rep. 165.) So, in equity, where a bill was filed to set aside an agreement made by a seaman for the sale of his chance for prize money, that eminent Judge, Sir William Grant, Master of the Rolls, expressed the opinion that the agreement was void from the beginning, as amounting to champerty, viz: the unlawful maintenance of a suit in consideration of a bargain for a part of the thing, or some profit out of it.—Stephens vs. Bagwell, 15 *Ves. Jun.* 139. In a later case, before Lord Chancellor Eldon, certain beneficial contracts and conveyances, obtained by an attorney from his client, during their relation as such, and connected with the subject of the suit, being also liable to the charge of champerty, were decreed to stand as a security, only, for what was actually due.—Wood v. Downes, 18 *Ves. Jun.* 76. Lord Eldon, in delivering his opinion, referred to the case of Strachan v. Browder, 1 *Eden*, 30, decided by Lord Northington, in which he set aside a bond, given to secure double the amount subscribed to assist a poor man to recover an estate, upon condition to have nothing if the suit failed—the chancellor observing that, though not strictly champerty, it was very near it.

In some of our sister States, champerty and maintenance have been decided to be offences at common law, and contracts infected with them have been declared illegal and void.—Burt v. Place, 6 *Cowen's Rep.* 431, was a case where an agreement to aid in defending a suit, made with one who was not licensed as attorney or counsel, was adjudged illegal and void for maintenance, that being both *malum in se*, and prohibited by statute in New York. Turston v. Percival was decided in Massachusetts. At the trial, it appeared that the plaintiff, who lived in that State, had been employed as an attorney and counsellor by the defendant, to aid him in recovering a large sum of money, in a suit which was prosecuted in the State of New York. After an expensive litigation, the defendant recovered a judgment for $29,734, which was satisfied by a compromise, by which he received $20,000. The plaintiff was constantly engaged in forwarding the suit, procuring evidence, and corresponding with the defendant's counsel in New York, and he made several journeys to New York to consult with the defendant's counsel there, and to attend at the argument of the case; but he did not act as advocate, not being allowed to do so by the laws of the State. The plaintiff produced in evidence a written agreement, made in Massachusetts, by virtue of which he was to receive, for all his services, above described, ten per cent upon the sum which should be recovered. This was objected to as being unlawful, and was rejected. The Court held that, though the plaintiff might recover upon a *quantum meruit*, for his services, before the agreement was entered into, yet the agreement itself was unlawful; that it came within the description of champerty, which all the ablest writers on criminal law declared to be an offence at common law; and that, though it had reference to a suit in the State of New York, the presumption was that it was against the law of that State, in the absence of any proof to the contrary.—1 *Pick. Rep.* 415.

This case was referred to with approbation in the subsequent one of Lathrop v. the Amherst Bank, 9 *Metcalf*, 489, where it was held that an agreement between the plaintiff and defendant, that the plaintiff should prosecute and manage the defendant's suits at law, as agent, and should receive for his services a certain per cent, upon the amount that might be recovered, and that, if nothing was recovered, his expenses only should be paid, amounted to champerty, and was so far illegal and void that the plaintiff, after obtaining judgment for the defendant, could not maintain an action on it. In delivering their opinion, the Court say, "it was suggested in the argument, that the facts here shown do not bring the case strictly within the definition of champerty, as the plaintiff was not to conduct the suit wholly at his own expense but was, in the event of a failure to sustain the action, to be remunerated for his actual expenses. It is true that some of the elementary books, in defining champerty, say that 'the champertor is to carry on the suit at his own expense,' as 4 *Blk. Com.* 135—*Chit. Con.* (5 A. ed.) 675. Other books, of equal authority, omit this part of the definition, as 2 *Hawkins*, ch. 27, Tit. Champerty—*Co. Litt.* 368. See further on this subject, *Story's Eq. Qu.* sec. 1048 and 1049 and the cases referred to in the notes.

From this brief review of the leading cases and authorities on the subject, it manifestly appears that champerty is an offence at common law, independently of any statute, not only in England, but in some, if not all, the States of this Union, which derive their unwritten law from the same source. It appears further, that every contract or agreement made, into which champerty enters as a consideration, is illegal and void. Hence we conclude that the same doctrine prevails in this State, where it is expressly enacted "that all such parts of the common law as were heretofore in force and use, in this State, or so much of the said common law as is not destructive of, or repugnant to, or inconsistent with, the freedom and independence of this State, and the form of government therein established, and which has not been otherwise provided for in the whole or in part, not abrogated, repealed, or become obsolete, are hereby declared to be in full force."—1 *Rev. Stat.*, ch. 22. It is true, that this particular point has not yet been expressly decided by our courts, so far as we can learn from our reports, but in the case of Falls v. Carpenter, 1 *Dev. and Bat. Eq.* 237, where certain assignments of an interest in lands were adjudged to be void on the ground of maintenance or champerty, the Court said that they did not come within the objection, without expressing or intimating that the common law doctrine, in relation to those offences, was not in force in this State.

The result of our argument is, that the agreement made between the defendant, William R. Strong, and his father, during the pendency of the suit for the slaves mentioned in the pleadings, whereby the said defendant was to have one-half of the said slaves in case of a successful defence, was founded upon the consideration of champerty, and is therefore illegal and void, unless the near relationship of the parties prevents the application of the law of their case.

As to the middle offence of maintenance, "it seems to be agreed, (says Hawkins, book 1, ch. 27, sec. 26,) that whoever is in any way of kin, or affinity to either of the parties, so long as the same continues, or but related to him by being his god-father, may lawfully stand by him at the bar, and counsel and assist him, and also pray another to be counsel to him; but that he cannot justify laying out any of his own money in the cause, unless he be either father, or son, or heir apparent to the party, or the husband of an heiress." So Blackstone says, in the 4th book of his Commentaries, page 185: "A man may maintain the suit of his near kinsman, servant, or poor neighbor out of charity and compassion, with impunity." It is evident from these authorities, which have been adopted and followed by all the later writers on the criminal law, that persons standing towards each other in the near relation of father and son, may maintain and assist each other in their suits, by their money, their services, and their influence. Such is the dictate of those feelings of affection and regard, which the God of nature has placed in the breasts of parent and child, and the common law has wisely abstained from attempting to control them. The question remains, can that support an assistance which ought to spring from the purest and best feelings of humanity, become the subject of traffic, of bargain and sale? Can a son, before he comes to the aid of his father, perhaps a sick and dying father, when sore pressed by law-suit, stipulate for half the fruits of success? We have not as yet been able to find any such exception to the common law of champerty. A son may defend his parent, if forcibly attacked in his person or property, and may repel force by force, yet he cannot strike for revenge, nor as we conceive for money or other property. Certainly the father himself, could not justify a blow, under the plea of *son assault demesne* where he had hired his adversary to assail him. If the son would not be justified when striking for defence, not under the promptings of natural affection, but for reward, his act being unlawful, no agreement between his father and himself founded upon such consideration could be sustained. But whether this be so or not, we think there is no doubt that a conveyance from a father to a son of land, while another person was in the adverse possession of it, would not pass the legal title, and from the analogy to this we conceive that a son, who bargains for a portion of what may be gained or saved in his father's suit at law, as the price of his assistance, cannot be exempted from the operation of the law against an offence deemed so odious in others.—See 4 Black. Com. 135.

In taking this view of the common law in relation to champerty, it has not escaped our attention, that in the construction of the statute of 28 Edw. 1st, ch. 11, passed for the purpose of increasing the penalties attached to this offence, it was held "that no conveyance or promise thereof, relating to lands in suit, made by a father to his son, or by any ancestor to his heir apparent, is within the statute, since it only gives them the greater encouragement to do, what by nature they are bound to do."—1 Hawk. P. C., ch. 27, Tit. champerty, sec. 18. This construction necessarily follows from the very words of the exception contained in the last clause of the statute. "*Mes en ces case ject mye ce renterde, que home ne point over counsaile des countours, et des sages gents pur son doneat ne de ses prochiene amies.*"—2 Coke's Inst. 564. Lord Coke translated "*de ses prochiene amies,*" to mean "of their next blood," and of course it excluded from the penalties of the statute, gifts from a father to his son, pending the suit. So far from proving our view of the common law to be incorrect, it the rather sustains it, by showing that there was a necessity for inserting the exemption in the statute.

But the counsel for the defendant, contends that the plaintiffs cannot have the relief which they seek, of having the agreement between the defendant, William, and his father, declared void and removed out of their way, because they have no special prayer to that effect. To this, it is successfully replied by the counsel for the plaintiffs, that their bill contains a general prayer, under which the specific relief may be given, because it is not inconsistent with their special prayer, and is sustained by the admitted allegations of the bill.—2 Madd. Ch. Pr. 171, Adams Eq. 309, Mitt. Ch. Pl. 39. The plaintiffs are entitled to a degree for an account, upon the principles set forth in this opinion.

Decree Accordingly.

To possess a true-hearted friend is good, but to be able to endure, without resentmentment, the conduct of a false-hearted friend is still better; the former is a temporary good, the latter eternal.

"Ma, I'm next to the head." "You don't say so, Billy? How many are there in your class, my boy?" "I and Sol. Dean."