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Leading Cases Where Injunctions May Be Granted

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T H E S I S

Leading Cases where

Injunctions may be Granted

Presented for the Degree

of

Bachelor of Law

by

J. N. Mosher

1893

I N D E X

Alienation, of Neg. Securities 23

" Pending Litigation 23

Bills of Peace, two classes of 9

General Rules II

Breach of negative covenants 24

Covenants which have been restrained 24

Confidential communications, restraint of dis I4

Corporations, Injunctions in case of 24

Character of Equitable remedy of Injunction 3

Classification of leading cases where injunction is-

sues to protect legal rights I5

Copy-right 20

Common or Special Injunctions 4

Diligence, colorable imitations 23

Election between remedies 9

Equitable remedies assisted 9

Rights protected 8

Injunctions. defined I

Mandatory and Prohibitory I

Mandatory 2

Prohibitory 3

Interlocutory and Perpetual 3

Interlocutory Injunction defined.....4

Ex-parte Injunction.....4

Common and Special.....4

To restrain proceedings at law.....5

To prevent vexatious litigation.....9

after it has assumed jurisdiction.....9

In case of patent right.....19

In aid of proceedings in bankruptcy....12

Extent of jurisdiction.....6

General nature of " 6

In cases of trusts and mortgages.....13

Between Partners.....14

Interpleader, Bills of.....22

Literary Property.....24

Lumley v. Wagner.....24

Nuisance, Different kinds.....17

Patent Right.....20

Public Companies, Restraint from taking land.....17

Previous trial to establish right.....20

Proceedings Restrained.....12

Piracy, What it is, Subdivisions.....17

Trespass, Origin of jurisdiction.....17

Title, How far must be established.....18

Trade Marks 22

Sheffield Water Works v. Yeomans 10

Waste

Reasons for remedy in equity 16

Who will be restrained 17

Equitable waste 17

INJUNCTIONS.

A writ of injunction may be defined as a judicial process, operating in personam, and requiring the person to whom it is addressed to do or refrain from doing a particular thing. In its capacity it may be either restorative or preventive, and may be used in the enforcement of rights and prevention of wrongs. In general, however, it is used to prevent future injury rather than to afford redress for wrongs already committed, and is, therefore, to be regarded more as a preventive than as a remedial process.

Injunctions are mandatory or prohibitory,(i) according as they command defendant to do or refrain from doing a particular thing. While mandatory injunctions are established and maintained at the present time, they are rarely exercised and seldom allowed before a final hearing. (ii)

A mandatory injunction is one that compels the defendant to restore things to their former condition, and virtually directs him to perform an act. The jurisdiction of the court to issue such a writ has been questioned, but is now established beyond a doubt.

(i) High on Injunctions §§ 1—7.
(ii) Story on Injunctions. (4th Ed.)
" Bispham's Principles of Equity § 400.

In the case of Robinson vs. Lord Byron, I Brown C. C., 5I2, an order was given restraining Lord Byron from so using the waters of a certain stream as to make the flow irregular and thereby injuring the mills of the parties affected by the unequal flow of water. Thus a party who has diverted water from its proper channel may be made by a mandatory injunction to restore it.(i) So a mandatory injunction issues to remove a nuisance, (ii) and to prevent the continuance of trespass for which there is no adequate remedy.

In M. R. R. Co. v. Board of Health, 23 Beav., I98, it was held that a local board of health was not justified in diverting water used as a feeder for a state canal, into a sewer, and thus conveying away the sewage into the canal. An injunction was granted compelling the defendants to turn the water back into its former channel.

Mandatory injunctions are granted only with great caution. In American courts the inclination is against granting an interlocutory injunction, but in England the better opinion is that a mandatory injunction may be had on interlocutory application. (iii)

(i) Corning v. Troy Iron Co., 40 N. Y., I9I.
(ii) M. R. R. Co. v. Board of Health, 23 Beav., I98.
(iii) Robinson v. Lord Byron, I Brown C. C., 538.
Bispham's Principles of Equity, Sec. 420-422.

A prohibitory injunction, as its name implies, is one which is granted for the purpose of restraining the defendant from the continuance or commission of some act which is injurious to the plaintiff. This is by far the most usual form the injunction assumes, and is exercised in the performance of equitable powers.

The relief afforded by the writ of injunction is probably the most effective, the most characteristic, andmost extensive of equitable remedies, and in its prohibitive form may prevent damages to property which are imminent, irreparable, and for which damages furnish an entirely inadequate remedy or redress. With a single exception no common law process exists by which damages to property may be prevented as distinguished from redressed: and,therefore, the equitable remedy by injunction possesses a peculiar value as furnishing a kind of relief that can be had in no other forum.

The reason of its constant use and continued favor in the hands of practitioners is because of its promptness and completeness, which is greater than that of any other remedy either in equity or at law. But the operation of this remedy must be kept within proper limits. An injunction will not be granted which ties up a man's entire property. (@)

By another classification injunctions are interlocutory and perpetual.

(@) Ervin's Appeal, I Norris(Pa), 188.

An interlocutory injunction is one granted upon preliminary application usually before the final hearing. It is merely provisional. A perpetual injunction on the other hand is only granted on final decree, and is an adjudication upon the merits of the controversy. It constitutes the decree or parts of the decree in the cause. (a)

Exparte injunctions are granted upon the application of the plaintiff without the defendant's being heard,(b) or sometimes when both plaintiff and defendant are heard. It is only granted where delay would cause irreparable injury to property, or in similar cases to restrain the action of courts in actions at law.

The"common injunction" rarely exists in England or America, and the special injunction only on rare occasions, and then only when the proper security has been given.(c)

OCCASIONS FOR THE EXERCISE OF INJUNCTIONS.

I. Cases where the writ issues for the purpose of protecting equitable rights.

II. Where it issues for the purpose of preventing injury to legal rights(d).

(a)Kershaw v. Johnson, 4John. Ch., 670.
(b) Joyce on Injunctions, p. I.
(c) High on Injunctions, Vol. I., sec. 6.
(d) Stockdale v. Ullery, I Wright, 486.

The first class may be sub-divided into injunctions (1) for enjoining proceedings at law and (2) for any other equitable protection.

It is a well established fact that equity will interfere to restrain proceedings at law, whenever through fraud, mistake, accident or want of discovery one of the parties in a suit at law obtains, or is likely to obtain, any unfair advantage over the other so as to make the legal proceedings an instrument of injustice(a). The ground of this interference is that in order to do complete justice every part of the dispute should be passed upon. In the common law courts the rights of parties could, in many instances, receive only a partial consideration. It was to remedy this wrong that chancery interfered and assumed jurisdiction to stay legal proceedings; and this jurisdiction may be introduced at any stage of the legal cause. An injunction may be granted to stay trial, sometimes after verdict to stay judgment, or even after execution to keep the money in the hands of the sheriff if it is a case of fieri facias.

Since the reign of JamesII., in the noted dispute between Lord Chancellor Ellsmere and Lord Chief Justice Coke, an action had been tried in the King's Bench in which the Plain-

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(a) Sime v. Allen, 23 New Hampshire, 242.
Bispham's Principles of Equity, sec. 7.

tiff lost his verdict by reason of the absence of one of his witnessee, who was artfully kept away by the defendant. The plaintiff came into court praying for a discovery from the defendant. The latter refused to answer and was committed to prison for contempt. Since this decision the general right of chancery to interfere by injunction for the purpose of preventing an inequitable use of legal process has not been questioned in England and the same rule exists in the United States(a).

The injunction acts in personam merely, it is directed to the party not the court or the officers thereof. It has been said on high authority that:-"Any fact which clearly proves it against conscience to execute judgment and which would not have been available in a court of law, or of which the defendant might have availed himself but was prevented by fraud or accident, without negligence on his part, he will then be justified in applying to a court of chancery for relief, and under no other circumstances"(b). It has been repeatedly held by the courts that, in order that the other applicant shall be entitled to come to a court of chancery for an order for a new trial in a court of law, he must show that the relief sought is the result of accident, fraud

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(a) Earl of Oxford's Case, I Chan. Rep., I.
(b) Brown v. Hurd, 56 Ill., 317.

or mistake(a).

In England a party to an action has the option to either set up an equitable defense or plea in a court of law or go into a court of chancery for relief. He cannot, however, do both. The general doctrine is sustained, nevertheless, that the jurisdiction of equity will not be ousted by any subsequent assumption of jurisdiction of a law court. This doctrine was established in King v. Baldwin, I7 John., 384. Where a defendant in a court of law, being surety for his co-defendant, set up in his defense: "That the plaintiff, though urged by the surety to prosecute and collect the money from the principal debtor, had refused to do so until the principal became insolvent, which defense was overruled". Held,"That the surety may seek relief in a court of chancery on the same grounds as in a court of law, and where a creditor does an act contrary to the interest of the surety and contrary to his duty toward him, the liability of the surety is discharged and may be set up in the same way as in law."

It may be said, generally, that an injunction will be granted to restrain an action at law whenever an equitable title is not recognized, or where exact and complete jus-

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(a) Hubbard v. Jasinski, 46 Ill., I60.

tice cannot be had by reason of there being no equitable remedy. Thus if a trustee were to assert his legal title by ejectment against the beneficial owner equity would interfere by injunction. Equity will also restrain suits at law whereby or wherein the equitable titles growing out of mortgages, and the assignment of choses in action are liable to be disturbed or disregarded(a).

A mortagor of land, having obtained a release of the mortgage, sold and conveyed the premises, by deed with covenant of warranty, to a third person. The mortagee afterwards filed his bill against the grantee of his mortagor, to foreclose: held, that the mortagor might maintain a bill in equity to enjoin the suit for foreclosure, settle the question of payment, and have the mortgage cancelled.

Where a judgment is obtained on an illegal contract, or one contrary to the policy of the law, equity will prevent its execution, on the ground of fraud, accident, or mistake, by an injunction: but where a party to an action had a defense, which by negligence he failed to set up in the court of law, he cannot do so in a court of equity(b).

The writ of injunction may also be used for the pur-

(a) L. R. 2 Exchequer, 514.
(b) Mallet v. Butcher, 41 Ill., 382.

pose of protecting and enforcing the equities of notice, estoppel, conversion and election whenever these rights are in danger of being injuriously affected by the proceedings of the common law court. So, too, where one of the parties to a common law actiondesires to obtain a discovery from his adversary, the jurisdiction of a court of chancery will be exercised to prevent the other party from proceeding with the action until the discovery is obtained.(a)

An act of equity frequently interferes by injunction to prevent repeated suits, or causes the litigant to elect between two remedies. Equity will not allow a man to proceed in both a court of law and equity at the same time, but will cause him to choose either the one or the other(b).

INJUNCTIONS AFTER A COURT HAS ASSUMED JURISDICTION OF A CAUSE

After an action has once been opened in a court of equity the parties cannot, except on permission of the court before whom the action is brought, take the action into another tribunal or court of law.

There are two classes of bills of peace. The first class is to prevent a numerous class from making a continuous re-

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(a) Wyne v. Jackson, 2 Russel, 351.
(b) Fennings v. Humphreys, 4 Beaven, I.

currence of litigation, or to prevent the same individual from reiterating an unsuccessful claim.(a) A practical instance of this character in modern times occurred in the case of the Sheffield Water Works v. Yeomans. The waterworks, or reservoir, which was located above the village, burst and caused an inundation by which the property of many people was destroyed or injured. Certificates of damages were issued to I500 losers. It was held upon the application of five that a decision for one should answer for all, thus reducing the amount of litigation.(b)

The bill of peace must be established at law and the court of equity will, if necessary direct the cause to be tried therein.

Bills of peace of the second class, those wherein the plaintiff seeks to restrain the defendant from reiterating an unsuccessful claim, originated in the fact that an action for ejectment might be brought indefinitely, one action not being conclusive. In some of the United States two verdicts in support of the same title are deemed conclusive. The court of chancery, to avoid this unpleasant situation at common law, issues an injunction against fur-

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(a) High on Injunctions, p.
(b) Sheffield Waterworks v. Yeomans, L. R. 2 Ch., 8.

ther litigation. This doctrine was established in the case of Earl of Bath v. Sherwin (a) and is now unquestionable. Another, and perhaps the last case where equity interferes to protect vexatious litigation, is where there are two or more claimants for the same debt or liability, called "Bills of interpleader," which must show color of title in two or more claimants.(b) But a bill of interpleader will not lie where the plaintiff claims an interest in the subject matter. Thus if an action is brought against an auctioneer for deposit, he cannot maintain a bill of interpleader if he insists on retaining his own commission. (c) One of the claimants may assert a legal title while the other sets up an equitable title or both may set up an equitable title, and it is also essential that the debt, duty or thing claimed by both parties should be the same. After the complainant's rights to interpleader are established, either by admissionin the answer or by proofs he is dismissed with the costs of the litigation, which are to be paid from the disputed fund, and the conflicting claims are disposed of in the manner best adapted to the circumstances of the case.(d)

(a) Earl of Bath v. Sherwin, 4 Brown's Ch. C., 373.
(b) Bidwell v. Hoffman, 2 Paige's Ch., 199.
(c) Story's Eq. Jur., sec. 801-807. Mitchell v. Hayne, 2 Sims63.
(d) Bispham's Prin. of Eq., 420-422.

If the case be a proper one and the time be right the court will decide it at once, but usually they leave it to a reference, to a Master in Chancery, or to an action at law. A reference, all things considered, is by far the simplest and best method of settlement. (a)

INJUNCTIONS IN AID OF PROCEEDINGS IN BANKRUPTCY.

Under the Act of Congress of 1867, an act to establish a uniform system of bankruptcy throughout the United States, injunctions may be granted to stay proceedings at law both for the benefit of the creditors of the debtor and for the debtor himself. Thus the Federal District Courts may interfere by injunctions in cases of involuntary bankruptcy, to restrain the debtor, and any other person, during the pendency of the rule, ~~to show cause~~, from making any transfer or distribution or disposition of the property, and the Circuit Courts have power to act as courts of equity in all cases and questions arising under the act.(b)

Equity will not only interfere in proceedings at common law, but will also restrain parties to proceedings in ecclesiastical courts, in courts of admiralty, in foreign courts and in courts of bankruptcy, to the extent of restraining a

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(a) Bank v. Bangs, 2 Paige's Chan., 572.
(b) Bispham's Prin. of Eq., p. 424.

party from commencing proceedings in bankruptcy: (a) but not to the extent of interfering with the jurisdiction of the bankrupt estate, after such jurisdiction has attached. (b) Proceedings in criminal courts will not be interfered with unless the action was also before an equity court and brought by the same plaintiff.(c) And acourt of equity of one state is slow to interfere with the tribunals of a sister state, and federal courts with state courts, but a court of equity may sometimes restrain proceedings in another court of equity.(d)

Tax officers are often restrained from collecting taxes. This is either on the unconstitutionalty of the tax or some other reason which would render the common law remedy inadequate and justify the interference of a court of equity.(e) There is a limit, however, and it is a settled law of this country that an injunction bill to restrain the collection of a tax simply on the grounds of illegality cannot be maintained, but must come in on some recognized ground of equity jurisdiction.(f)

(a) Bispham's Prin. of Eq., sec.424.
(b) Morely v. White, L.R. 8 Chan. Div., 463.
(c) Kerr v. Corporation, L. R. 6 Chan. Div.,214.
(d) Prudential Assurance Co. v. Thomas, L. R. 3 Chan. Div. 74.
(e) State R. R. Tax Cases, 4 Otto, 575.

Equity will interfere to protect the rights of an equitable title. Thus the creditor of a husband may be restrained from levying on the separate equitable estate of a married woman; and in Pennsylvania it has been held that the feme is entitled to the same protection in regard to her separate estate under the Married Woman's Act. (a)

A mortagee may commonly pursue all his remedies at once, but it sometimes so happens that it would be inequitable to allow him to do so. And he may be restrained by injunction, under certain circumstances, from proceeding against the premises or personally against the mortgagor. Equity will also interfere in disputes between partners. This court has jurisdiction to restrain, by injunction, members of a firm from doing acts inconsistent with the terms of the partnership agreement, or with the debts of the partner.(b) Under these circumstances injunctions may be had without dissolution for the purpose of protecting the rights of respective partners.(c) After dissolution, an agreement by a retiring partner not to carry on the business, will be enforced by means of an injunction restraining the retiring partner according

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(a) Hunter's Appeal, 4 Wright, 194.
(b) Stockdale v. Ullery, 1 Wright, 486.
(c) Lindley on Partnership, 1053.

to the terms of his covenant. Other stipulations may be enforced by this writ, as, for instance, it is frequently used to restrain the disclosure of a confidential communications, papers and secrets. Ordinarily however a person will not be restrained from divulging a trade secret unless he came into possession of it by means of a confidential relation, when, of course, it would be a breach of faith.(a)

Most of the instances when equity interferes for the protection of legal rights are embraced within the following. viz.: waste, trespass , nuisance, copyright, literary property, patent right, trade mark, alienation of property, protection of property pending litigation, negative covenants, and corporations.

Waste is, generally, an injury to the inheritance of lands committed by the tenant in possession, for which injury the legal remedy has become almost obsolete because of its inadequacy, and especially where the estate is equitable. An instance of the application for injunction against waste is, usually, made by a reversioner or remainderman against the tenant for life or years. Injunctions for waste will also be granted in the interest of an unborn child, or in favor of a tenant in common.(b)

(a) Peabody v. Norfolk, 98 Mass., 452.
(b) High on Injunctions, pp. 649-652.

The writ of waste has been abolished in England, and the only common law remedy that remains is a special action for damages.(a) In many of the states remedies for waste are given by statute: in some of them the place wasted being forfeited and damages recovered, in others the remedy being simply an action for damages.(b) Hence it is obvious that the common law and statutory remedies are insufficient for they do not stop the injury that is continually going on, and, no matter how severe the remedy might be as against the defendant, it nevertheless affords inadequate relief to the plaintiff. Therefore equity interfered with an injunctionwhich, by virtue of its simplicity, and the thoroughness of its action, has superseded the old common law remedy.(c)

An injunction will, sometimes be granted where there is a legal title and a legal remedy, if the remedy at law be inadequate as in repeated trespass. When a person in possession of an estate seeks to restrain one who claims by adverse title, an injunction will be granted, and especially if the acts tend to destroy the estate. (d) Equity will also interfere by injunctionwhen the parties commiting the waste, with only a limited estate, wantonly abuse their legal rights to

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(a) Williams on Real Property, p. 24.
(b) Washburn on Real Property, p.22 (note)
(c) Kane v. Vanderbush, I John. Ch., 4.
(d) Wm. Saks Co. v. Worster, 29 N. H. 433. Robinson v. Lord Byron, I Brown C. C., 588.

the injury of the remainderman. An injunction would lie in equity though the act be legal at law. So a mortgagee in possessionwill be restrained from waste if the security is sufficient, if it is not he may make the most of the property. If, on the other hand the mortgagor is in possession, and the security is insufficient, he may be restrained from committing waste by injunction.(a) In dealing with a corporation equity will act with greater promptness and will apply more stringent rules than in the case of a private individual. Equity will keep a corporation strictly within its statutory privileges. A man has a right to say that a corporation shall not enter upon his land except on the terms prescribed by statute.(b)

The authority of the court of equity is often called upon to restrain a nuisance. Probably the writ of injunction is as frequently applied and as beneficially exercised in this as in any other branch of equity jurisprudence.(c)

Nuisances are private and public. Public nuisances are those causing an injury to all coming within the sphere of its operation.(d) Private nuisances are those which injure the property of an individual. The remedy for public nuisance

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(a) McIntyre v. Story, 80 Ill., 127.
(b) Bigelow on Equity, p. 300.
(c) High on Injunctions, sec. 759.
(d) Fuss v. Butler, 7 C. E. Greene,

is by information to the attorney general who may proceed in equity the same as a private individual in a private nuisance.(a) The remedies at common law for a private nuisance were an action in the sase to recover damages. It is obvious that this remedy is insufficient and inadequate. If one man is carrying on a trade near the house of another man, which is injurious to the health of that man, a recovery of damages is manifestly but a poor redress. Hence equity will restrain the noxious trade, and thus effectually put a stop to the injury. The jurisdiction of equity may be traced back to the time of Elizabeth.

Equity has concurrent jurisdiction with the law courts in all cases of private nuisance. The interference of chancery in any particular case being justified on the grounds of restraining a multiplicity of suits or irreperable injury.(b) The most common instances of the application of injunction to the redress of private nuisances occur in the question of the pollution of streams, the diversion of watercourses, the flooding of private property and the stoppage of private rights of way. The right to an injunction often depends upon the preliminary question: has the legal right been established or admitted?(c) As a general rule if the complainant's

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(a) Carlisle v. Cooper, 6 C. E. Greene, 576.
(b) Rhea v. Forsyth, I Wright, 507.
(c) Denton v. Leddell, 8 C. E. Greene, 64.

legal right be admitted or established then the right to an injunction is plain. The nuisance must actually exist or be imminent. The injury must not be contingent merely. Mere apprehension upon the part of the complainant will not be sufficient.(a) Though where it is shown that though it is scarcely a nuisance now but increasing all the time, equity will interfere.(b) The enjoyment of pure and wholesome air is a right to which occupiers of land are entitled as a common right, and any act which corrupts the air so as to produce a real and sensible damage constitutes a nuisance. Noisy manufactories may be a nuisance and mere noise may be a sufficient ground for an injunction. The manufacture of gunpowder or any other dangerous proceeding may be considered a nuisance. It was formerly held that if a man erected his house near or in immediate proximity to a factory where an offensive trade was carried on he was not entitled to an injunction for its removal. The doctrine of "Coming to a nuisance"is now exploded, and no injunction will be refused on that ground.(c)

b In injunctions for infringements upon patent rights, copy rights and literary property the jurisdiction depends upon the fact that the remedy at common law is entirely inade-

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(a) Story's Equity Jurisprudence, p. 929d.
(b) Bishop v. Banks, 33 Conn., 118.
(c) Cleavland v. City Gas Co. 5 C. E. Greene, 201.

quate. Thus an infringement cannot be justly ascertained at common law for two reasons: in the first place it is difficult to find the exact damage, and in the second place every act would call for a new litigation.(a) The equity remedy has three results not reached by common law: (1) Inspection, (2) Injunction, (3) Account. Where a plaintiff is unable to find the amount of the infringement the court will appoint men to ascertain by inspection the entire situation, after which an injunction is issued restraining further infringement, and an accounting ordered for the purpose of ascertaining the amount made by the defendant by his infringement.(b) But there must be no negligence upon the part of the complainant if he wish to obtain redress. His action must be brought in a United States court, not in a State court which has no jurisdiction.(c) Copyright in this country depends upon the acts of Congress and the remedies for infringement are exclusively within the United States courts.(d) The title of the complainant may be established in a suit for an injunction, however, the question is entirely within the discretion of the court and it may require as a pre-requisite a trial at common law before taking cognizance of the question, if the

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(a) High on Injunctions, sec. 960.
(b) Parkhurst v. Kinsman, 2 Halstead's Ch., 600.
(c) High on Injunctions, sec. 641.

court should think proper.

Piracy of a copyright is the unauthorized substantial appropriation of the labors of an original author. It is almost impossible to lay down any general rule as to what constitutes an infringement of a copyright.(a) It is no objection to an injunction that it will stop the sale of the work by which the copyright was infringed; if a man chooses to make an unlawful use of appropriations from anothers books to such an extent that his own cannot be separated therefrom it is his loss. To constitute a piracy there must be a multiplication of the copies of the original work, any other use such as public readings or recitations will not be a piracy, but any multiplication of copies, even though such copies cannot be intended for sale, will constitute an infringment. The court of equity will not interfere to protect any infringement of any immoral, obscene, or irreligious publication. This rule calls for the highest degree of discretion for what to one man is immoral or bad may not be open to criticism by another. So also is the question of publication hard to decide. The representation of a play at a theater has been held not to be a publication, nor public

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(a) 2 American Law Review, 210.
High on Injunctions, sec. 642.
Story's Equity Jurisprudence, sec. 936.

readings which would deprive an author of his common law right, after publication the right no longer exists.(a) Equity will restrain the publication of letters: for while the receiver of letters has a right to their posession, he has no right to publish them.(b) Under certain circumstances he may publish them, to vindicate his character, or in the interest of justice. The writer may publish the letters at his pleasure.(c) It may also be said that on general principles of equity the publication of any manuscript will be restrained when such publication is a breach of confidence or other violation of duty.

The right of property in trademarks was recognized at an early date in common law but a long period elapsed before such right was recognized in equity by the use of the injunction.(d)

From the various cases upon copyright infringement we may draw two conclusions: first, that the trade mark for which protection is asked must not itself deceive the public, and secondly, that the instrument or imitation to be an infringement must be calculated to deceive a person of ordinary intelligence or caution. The test may be whether the public. using ordinary caution are deceived: yet the ground upon

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(a) Hopkins v. Burgh, L. R. 2 Ch., 447.
(b) Bisphams Principles of Equity, sec. 450-454.
(c.d) Congress Co. v High Co., 45 N. Y., 291.

which the jurisdiction of the court exists or rests in such cases is not the fraud upon the public but the invasion of the property.(a) Any name,symbol or emblem may, in general, be a trademark, but a name which is merely a description of an article or which merely denotes the general character of the business, cannot be used as a trademark. (b) But a name may be a trademark, and it may become one to such an extent as to prevent another man with the same name from using it in disposing of articles of the same nature as those he, the original man, sold.(c) In order to obtain relief for the protection of a trademark it is necessary that due diligence be shown. Nor will equity protect by injunction any infringement of a fraud on the public. Infringement is treated ~~is treated~~ in the same manner in case of copyrights and trademarks as when it is of a patentright.

Another class of cases where injunctions are issued is where irreparable damages may be done by the alienation of property prior to or pending litigation, or even where no litigation may be in contemplation, still another class of cases in which equity interferes, is where property which is the subject of litigation, is in danger of injury, and

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(a) Clarke v. Freeman. IIBeavan, II2.
(b)
(c)

the interposition of a court of equity is necessary for its protection. The object in granting such injunctions is to hold the property in statu quopending litigation. The complainant must, however, make out a prima facie case.

The remedy by injunction to restrain the breach of negative covenants may be said to furnish the complemanto specific performance. In such cases the injunctions are only granted when the contract and threatened breach are clearly shown and where the recovery of damages at law would furnish inadequate redress. The leading authority upon this subject is Lumley v. Wagner: there the defendant had entered into a contract with the plaintiff to sing at his theater and not to sing at any other theater. An injunction was granted restraining her from singing at any other theater.

The last case which we shall note where an injunction is granted embraces those in which the writ is issued in cases where a corporation is a party. It is generally held, by the authorities, that the theory upon which a court of equity acts in such cases is that the court will interfere to prevent a breach of trust. It is submitted with deference however that this view is too limited and that equity will sometimes interfere where a corporation is acting ultra vires, when the acts were liable to result disastrously to the interests of stockholders without knowing there had been an actual breach

of trust. But be that as it may, the jurisdiction of equity over corporations has been extensively exercised.

In leaving the subject of injunctions it should be remembered that the examples given of the equitable remedy to the cases discussed are only illustrations of the jurisdiction after all and not an exhaustive review of all cases where an injunction may be had.

The field of this jurisdiction is an exceedingly wide one and scarcely any injury to the rights of property can be imagined where the writ would not issue if the remedy at law was inadequate and the only efficient redress would be restraint of the commission or continuance of the wrongful act.

See lectures of Prof. Hutchins on injunctions and the cases cited therein.

C I T A T I O N S

American Law Review.....21

Bispham's Principles of Equity....2-5-11-12-13-21-22

Brown v. Hurd 6

Bidwell v. Hoffman.....11

Bank v. Bangs.....12

Bigelow on Equity..... 17

Bishop v. Banks.....19

Corning v. Troy Iron Co.....2

Carlisle v. Cooper.....18

Cleavland v. City Gas Co.. 19

Congress Co. v. High Co.....22

Clarke v. Freeman.....23

Denton v. Leddell.. 18

Ervin's Appeal.....3

Earl of Oxford's Case.....6

Earl of Bath v. Sherwin.....11

Fennings v. Humphrey.....9

High on Injunctions.....4-10-15-17-20-21

Hubbard v. Jasinski.....7

Hunter's Appeal.....14

Hopkins v. Burgh..... 22

Joyce on Injunctions.....4

Kershaw v. Johnson.....4

Kerr v. Corporation.....I3

Kane v. Vanderbush.....I6

L. R. 2 Ex.. 8

Lindley on Partnership.....I4

M. R. R. Co.v. Board of Health.....2

Mallet v. Butcher.....8

Morely v. White.....L3

McIntyre v. Story.....I7

Prudential Ins.Co.v. Thomas.. ....I3

Peabody v. Norfolk..... .....I5

Parkhurst v. Kinsman.....20

Robinson v. Lord Byron.....2-I6

Russ v. Butler..... .....I7

Rhea v. Forsyth.....I8

Stockdale v. Ullery.....4

Sime v. Allen..... ...5

Sheffield Waterworks v. Yeoman.....I0

Story's Equity Jurisprudence.....II-I9-2I

State R. R. Tax Cases.....I3

Wyne v. Jackson.....9

Williams on Real Property.....I6

Washburn on Real Property.....I6

Wm. Saks Co. v. Worster.....I6