of the savage nature of the dog; notice to the wife is always sufficient. The case is governed by the case of *Stiles* v. *The Cardiff Steam Navigation Company*, 12 W. R. 1080, 33 L. J. Q. B. 310.

BOVILL, C.J.—I am not prepared to assent to the proposition put forward by Mr. Prentice, that notice to the wife would in all cases be sufficient. Here the wife attended to the milk business; the dog was kept in the yard, when Gibson was bitten by the dog on a former occasion his aunt went to the defendant's premises in order to make a complaint to the defendant; the defendant's wife appeared, and the formal complaint was made to lie; it was contended that that complaint should have been communicated to the defendant; but I think that there was evidence from which a jury might have inferred that that complaint had been communicated to the defendant, and that the scienter was proved.

WILLES, J.—I am of the same opinion. If I had had to try this case, I should have taken the same course as that taken by the learned judge at the trial. There was some slight evidence to show the ferocious character of the dog, and that the defendant was aware of that character. I think the verdict must be entered for the plaintiff. The dog had bitten one person before, and had torn the dress of another; those are the facts; and that is some evidence that the dog was accustomed to bite mankind. Then was there any evidence of the defendant's knowledge? the aunt of the boy who was bitten saw the defendant's wife, at the defendant's house, and communicated the facts to her, the wife in the absence of the husband was the proper person to lock up the dog. That complaint was delivered in the character of a message, and it was the duty of the wife to make known to her husband the circumstances of the case. I cannot say that there was no evidence to prove the scienter, and therefore the rule to enter the verdict for the defendant must be made absolute.

KEATING, J.—I am of the same opinion. The evidence was very slight, so slight that it appeared to my brother Smith that it ought to be withheld; there was some evidence, and therefore the rule must be made absolute

SMITH, J.—I am glad that the Court can come to the conclusion that there was evidence; the only question is as to the defendant's knowledge of the savage nature of the dog. I regret that the law should make it necessary that that should be proved; but as that is the rule, I do not regret that its stringency should be to some extent mitigated. In my opinion there was some evidence from which the jury might infer that the scienter was proved.

Rule absolute.

CRUMP v. LAMBERT.

Nuisance—Injunction—Factory smoke—Effluvia—Noise.

The Court will grant an injunction to prevent a business being carried on so as to be a nuisance where the annoyance caused is such as materially to interfere with the ordinary comfort of human existence, and will not require proof of specific injury, such as, for instance, the destruc- of vegetable life.

Smoke alone, or bad smells or offensive gases alone, or noise alone, are sufficient causes for the interference of the Court by injunction.

(M. R. Feb. 7.)

This suit was instituted to abate a nuisance caused by carrying on some ironworks at Walsall, in Staffordshire,

The plaintiff was the owner of two semi-detached houses at a place called Mount Pleasant in the outskirts of Walsall, together with a garden in the front of them, and was the occupier of one of the houses and the garden. The defendant, who was an iron-bedstead manufacturer, had for some time carried on some works in the town of Walsall, as well as a small place in the neighbourhood of the plaintiff's house, where the manufactured articles were finished off.

Recently he erected a new factory adjoining the wall of the plaintiff's garden, in which the whole process of the business, including the smelting of pigs of iron, was carried on. The factory had a chimney, which soon after its erection was raised on the complaint of some of the neighbours. As the factory was on a lower level than the plaintiff's property, the raising of the chimney only brought the products of the com bustion more immediately upon the plaintiff. The plaintiff alleged three causes of injury to the enjoyment of his property by reason of the establishment of the new factory; first, the great addition to the smoke of the neighbourhood which it caused; secondly, the noisome gases and offensive odours emitted from it; and, thirdly, the noise of hammers, and the voices of the workmen.

The plaintiff not being able to obtain an abatement of the nuisance, filed the present bill for an injunction against the defendant. The motion for injunction was turned into a motion for decree, and the cause now came on for hearing. A large amount of evidence was put in on both sides. That of the plaintiff consisted chiefly of affidavits tending to shew that the neighbourhood of the new factory had suffered serious injury; while that of the defendant tended to establish that there was so much smoke and effluvia already that the small addition made by the new factory was not seriously felt.

Southgate, Q.C., and *Robinson*, for the plaintiffs. —The defendants rely upon the case of *Hale* v. *Barlow*, 6 W. R. 619, 4 C. B. N. S. 334. That case was decided upon an erroneous view of the expression "a convenient place," in 1 Com. Dig. 304. It has never been followed, and is now overruled. The present case comes within the rules laid down by the cases of *Haines* v. *Taylor*, 10 Beav. 75; *The St. Helen's Smelting Company*, v. *Tipping*, 13 W. R. 1083, 11 H. L. Cas. 610; *Elliotson* v. *Faltham*, 2 Bing. N. C. 134; *Soltau* v. *De Hold*, 2 Sim. N. S. 133.

Jessell, Q.C., and *Everitt*.—We do not ask to have the bill dismissed. We wish to have an issue directed, and we believe no substantial damages would be given. The mere fact of the inconvenience caused by the factory is not by itself a reason for the interference of the Court by injunction without some special injury. In the case of *Tipping* v. *St. Helen's Smelting Company* there was actual damage to vegetation. Smoke by itself is not a sufficient cause for an injunction, nor noise by itself, nor a mere disagreeable smell. Where the place is "convenient" for a manufactory, an injunction will not be granted, damages only will be given.

Southgate, in reply, referred to *Durrell* v. *Pritchard*, 14 W. R. 212, L. R. 1 Ch. 224; *Rex* v. *White*, 1 Burr. 337; *Rex* v. *Neil*, 2 C. & P. 485; *Bradley* v. *Gill*, Lutw. 69; *Styan* v. *Hutchinson*,