

While there is no great dispute about the actual facts, plaintiff asks me to draw one inference and the defendants another, and in my opinion the proper inference can be drawn only by the eliminative process of a trial.

The damage, if any, cannot be irreparable—it can be easily estimated in dollars by a Judge or Master.

The affidavit of Alfred Rogers shews that the preponderance of convenience—public as well as private—is wholly against the propriety of granting an interlocutory injunction.

The injunction will not now be granted, but the motion will stand over until the trial. The parties may deliver pleadings in vacation, and defendants are to speed the trial. Costs of motion to be costs in the cause until the Judge at the trial shall otherwise order.

The authorities on which I base this judgment are as follows:—

Halsbury's Laws of England, XVII., pp. 217-8, and XXI., pp. 531, 534; Kerr, 3rd ed., 174; *Lord Cowley v. Byers*, 1877, 5 C. D. 944; *Earl of Ripon v. Hobart*, 1834, 3 M. & K. 169; *Magee v. London*, 1857, 6 Gr. 170; *Pope v. Peate*, 1904, 7 O. L. R. 207, and see *Rushmer v. Polsue*, 1906, 1 Chy. 234, as to increase of noise in an already noisy neighbourhood.

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MASTER-IN-CHAMBERS.

JUNE 27TH, 1913.

GASCOYNE v. DINNICK.

4 O. W. N. 1563.

*Discovery—Motion for Further Examination—Refusal to Answer—Issues not Properly Defined in Pleadings—Amendment of.*

MASTER-IN-CHAMBERS refused to grant further examination for discovery where the issues as disclosed upon the pleadings as filed did not warrant it but gave leave to plaintiffs to renew the motion after amendment of pleadings.

Motion by plaintiffs for an order for further examination, the defendants on examination for discovery having refused to answer certain questions deemed relevant by plaintiffs.

B. N. Davis, for motion.

J. Grayson Smith, contra.