

1849. this court has been governed by a narrow and erroneous rule
 in refusing to prevent trespass by special injunction, in what
 does that error consist? Why, plainly in this; that pending
 the time necessarily consumed in determining finally the
 right, a mere wrong-doer may have it in his power to inflict
 injury which, though not irreparable in the eye of the law,
 would in common parlance be regarded as such. This is
 the ground upon which the interim interference of the court,
 where it does interfere, has been justified. Upon these
 grounds its refusal to interfere is objected against, where it
 declines to act. The desideratum therefore is a power to
 enjoin trespass, and preserve matters in *statu quo* pending
 the litigation. Does not the simple statement of the evil
 and its remedy show conclusively that the complainant can
 have no ground to ask, and this court no jurisdiction to grant,
 the protection of a special injunction, where the application
 has been delayed without necessity or some very cogent
 excuse? Where the complainant, instead of coming
 promptly for his injunction, and then pressing forward the
 determination of his rights, legal or equitable, suffers more
 time to elapse than would have sufficed, without injunction,
 to have obtained the decision of the proper tribunal? When
 this court grants a special injunction, unnecessary delay in
 proceeding to trial has been always deemed a sufficient
 reason for dissolving such injunction. How can the court
 grant the writ where unreasonable delay has occurred
 before it has been applied for?

Judgment

In the *Birmingham Canal Company v. Lloyd*, (a) the
 injury complained of was of the most serious character,
 drawing off the water by which the canal was supplied,
 yet Lord Eldon refused an injunction on account of delay,
 leaving the plaintiffs to their action at law.

In the *Earl of Ripon v. Hobart*, (b) the bill was filed by
 commissioners appointed by act of parliament, to improve
 the navigation of the River Witham from Lincoln to the sea,
 and drain the fens on both sides of the river. The defen-
 dants were commissioners who had been appointed by a
 local act, for draining certain fens within three parishes in

(a) 18 Ves. 516.

(b) 3 M. & K. 169.

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