The cases decided upon this footing have been overruled by the Court of Appeal, which declared them to have been based upon a misapprehension as to the meaning of the words of Lord St. Leonards[4]. But in estimating the actual position taken by

defendant would have violated her agreement by singing elsewhere, even if there had been no negative stipulation. But, as Kay, L.J., remarked in the case cited in the next note, neither of these passages can reasonably be regarded as susceptible of the construction put upon them. Having regard to the explicit declaration of Lord St. Leonards above referred to, it is clear that his statement that, even the absence of an express negative stipulation, a violation of the contract on the defendant's would have been predicable, could not have been intended to bear the meaning, that this breach was a proper subject for equitable interference.

[4] *Whitwood Chemical Co.* v. *Hardman* (1891) 2 Ch. (C.A.) 428. There the manager of a manufacturing company agreed to give during a specified term "the whole of his time to the company's business." The judgment of Kekewich, J., who granted an injunction, proceeded upon the ground that, having regard to the terms of the contract, it was a case in which a negative stipulation was expressed, and that it was not necessary to deal with the rights of the parties on the hypothesis that such a stipulation, if it was to be read into the contract must be a matter of implication. In the higher court it was held, that, (whatever other remedies the company might have), in the absence of any negative stipulation in that behalf, they were not entitled to an injunction to restrain the manager from giving during the term, part of his time to a rival company. Lindley, L.J., said: "The first point to observe is, that there is no negative covenant at all, in terms contained in the agreement on which the plaintiffs are suing—that is to say, the parties have not expressly stipulated that the defendant shall not do any particular thing. The agreement is wholly an affirmative agreement, and the substantial part of it is that the defendant has agreed to give 'the whole of his time' to the plaintiff company. That is important in this respect, that it enables us to see more clearly than we otherwise might what the parties had in their contemplation. If there had been a negative clause in this agreement, such as there was in *Lumley* v. *Wagner*, 1 De G. M. & G. 604. and in some of the other cases, we should have been relieved from the difficulty of speculating what they had been thinking about. We should have seen that they had had their attention drawn to certain specific points, and that they had come to an agreement upon those specific points. Now every agreement to do a particular thing in one sense involves a negative. It involves the negative of doing that which is inconsistent with the thing you are to do. If I agree with a man to be at a certain place at a certain time, I impliedly agree that I will not be anywhere else at the same time, and so on *ad infinitum;* but it does not at all follow that, because a person has agreed to do a particular thing, he is, therefore, to be restrained from doing everything else which is inconsistent with it. The court has never gone that length, and I do not suppose that it ever will. . . . What injunction can be granted in this particular case which will not be, in substance and effect, a decree for specific performance of this agreement? It appears to me the difficulty of the plaintiffs is this, that they cannot suggest anything which when examined, does not amount to this, that the man must either be idle, or specifically perform the agreement into which he has entered. Now there, it appears to me, the case goes beyond *Lumley* v. *Wagner*, and every case except *Montague* v. *Flockton*, Law Rep. 16 Eq. 189. The principle is that the court does not decree