

HON. MR. JUSTICE LENNOX.

APRIL 8TH, 1913.

YORK PUBLISHING CO. v. L. COULTER & WAYSIDE
PUBLISHERS LTD.

4 O. W. N. 1091.

*Injunction — Interim Order — Balance of Convenience — Use of
Plaintiffs' Mailing Lists — Trade Name—Former Employe —
Terms—Expedition of Trial.*

Motion by plaintiffs for an interim injunction restraining defendants from in any way using the mailing list of subscribers to the plaintiffs' publication, from canvassing for subscribers or customers of the plaintiffs for any journal published by the defendants, from using any information which the defendant obtained as an officer or servant of the plaintiff in regard to advertisers, and from printing any journal under the name of "The Journal of Health Administration and Sociology," or under any name similar to that of plaintiffs' journal.

LENNOX, J., granted, on the terms that the trial would be expedited, an interim injunction restraining defendant, a former employe of plaintiff, from using advertising lists or information obtained from plaintiff or a name as a trade name closely resembling that of plaintiff, holding that the balance of convenience justified such an order.

Sexton v. Brockenshire, 18 O. R. 640, and *Dwyre v. Ottawa*, 25 O. R. 121, referred to.

E. E. A. DuVernet, K.C., for the plaintiffs.

J. Grayson Smith, for the defendants.

HON. MR. JUSTICE LENNOX:—That where there is serious doubt as to the rights of the plaintiff and the inconvenience appears to be equally divided between the parties the Court should not grant an injunction pending the trial was in substance the decision in *Sexton v. Brockenshire*, 18 O. R. 640. And in *Dwyre v. Ottawa* (1898), 25 A. R. 121, Chief Justice Moss said: "The rules governing applications of this kind are well settled. Where the legal right is not sufficiently clear to enable the Court to form an opinion it will be generally governed in deciding an application for an interim injunction by consideration of the relative convenience and inconvenience which may result to the parties from granting or withholding the order. And where it appears that greater danger is likely to result from granting than withholding the relief, or where the inconvenience seems to be equally divided between the parties the injunction will not be granted."

I am satisfied that greater inconvenience will result from withholding an injunction than from granting it; and