

Day Classes Open Sept. 15th at 9 a.m. Evening Classes open Oct. 5th at 7.45 p.m. Send for Prospectus to A. G. HORWOOD, Secretary.

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ABUSE INJUNCTIONS

ARBITRARY USE OF THE COURTS AGAINST FREEDOM. The Practice Began in England and Has become a General Outrage Here and in the United States.

By Judge Seabury Under English and American jurisprudence an injunction is a command issued out of a court of equity requiring the person to whom it is addressed to do or refrain from doing a particular act. It does not relate to the property of the person to whom it is directed, but, following the maxim that 'equity acts in personam,' it addresses its command to the person whose action it seeks to regulate.

Employees have been forbidden by injunction to leave the employ of receivers of a railroad with the intent of injuring the property in the custody of the receivers, and the court assumed the existence of the intent to injure the property from the fact that the men had combined to prevent a reduction of wages.

In one case an injunction even went further than this and absolutely prohibited the workers from leaving the receiver's employ regardless of any conspiracy or intent to injure the property. This seems to have been more than the appellate court could approve, and this provision was declared illegal on the ground that it subjected employees to involuntary servitude in violation of the thirteenth amendment of the constitution of the United States.

The courts have not only prohibited persuasion when accompanied by intimidation and threats, but have actually denied the right of workers peacefully to persuade their fellows to join them on strike. Thus in the case of the York Manufacturing Company versus Obolick (10 Penn. D. Rep. 463) the court said: 'It is seriously contended by counsel for the respondents that they had a legal right to approach other workers in the employ of the complainant and to persuade and induce them either to quit or not to accept such employment. There is no such legal right.'

The famous 'starvation' injunction issued last summer prohibiting workers from giving food and assistance to their associates during a strike has forbidden the payment of benefit money by a labor union to its members pending a strike.

These injunctions and many others of the same character which have been issued during the last few years violate fundamental rights. Assuming for the sake of argument that in every instance the workers were engaged in acts in violation of the criminal law, these injunctions were unnecessary and unjustifiable. If the acts were not criminal, then the theory upon which the injunctions were issued is incorrect, and they were admittedly without justification.

How different is the new method in introduced by the injunctions. A judge sitting at his chambers upon the ex parte application of a private person or corporation makes an order commanding the defendant to do or refrain from doing certain things which are specified in the order. Those violating the order are summarily arrested and brought before the judge whose pleas they are accused of violating. He inflicts punishment upon them. He is judge, jury and executioner, and if he had jurisdiction his acts cannot be reviewed upon appeal, and the accused is not entitled to counsel. The committing magistrate, the grand jury, the petit jury, the right of appeal and the right to have counsel are all dispensed with under this system a person can be punished twice for the same offense. He may be fined or imprisoned summarily for contempt in disobeying an injunction issued against him, and for the criminal offense charged he may be tried and found guilty and be subjected again to fine or imprisonment or both.

The sweeping character of these injunctions may be realized when it is recalled that they are issued not merely against the parties to the action, but against all mankind. In the Debs case (158 U. S. 564) the injunction was issued against all the persons named in the bill and against all the members of the American Railway Union who were charged upon twenty-three railroad systems and last some should be forgotten against 'all other persons whomsoever.'

In no legal sense is such an order an injunction at all. It is simply a general police proclamation putting the community in general under peril of punishment for contempt of the proclamation is disobeyed. The jurisdiction now exercised by courts of equity in issuing injunctions in labor disputes is similar to that exercised by the ohious court of the star chamber. The offenses which were regarded as peculiarly within the jurisdiction of the star chamber were riot, libel and conspiracy. The course of procedure was similar to that prevailing in chancery. It possessed power summarily to punish by fine and imprisonment for what an old writer called the breach of proclamations before they have the strength of an act of parliament.

The similarity between this jurisdiction and that exercised by courts issuing injunctions in labor disputes is manifest. The cases in which both assumed to act are the same. The procedure adopted is the same. The punishment to be imposed restated entirely within the discretion of the court.

The infamous tribunal of the star chamber, resting as it did mainly upon the denial of the citizen's right of trial by his peers, was not satisfied with the denial of the right of trial by jury, but 'sage and noble institution,' and Lord Coke commended it as 'a court of criminal equity.'

The right of free speech, free press and trial by jury, the exercises of which is glily prohibited by these injunctions, have only been won by centuries of struggle. Men have suffered imprisonment, the thumbscrew and the rack and sacrificed their lives that we might enjoy these rights.

We are to be deprived of them now by pieces of paper signed by judges of courts of equity!

THE WORKING CHILDREN. The most hateful words uttered in the English history of the last century were said by Michelet to be, 'Take the children. The great French critic of English institutions was looking across the channel to see the national issues hanging on the introduction of textile machinery and the factory system. When there were not enough men to feed the mouths at the mill, those of the working children were taken from school and play, from home - almost from the cradle to their long martyrdom in the English mills. It took thirty years of heroic sacrifice and continuous parliamentary struggle under the lead of Richard Castler, Thomas Sadler and the seventh earl of Shaftesbury to restore the right of childhood to the children of England's working people.

It seems incredible that such history must needs be repeated by people of the same language and legal heritage. And yet the old fight is being fought over again in almost every state, as the evil of child labor is driven out of the east only to take refuge in the west and south. Fortunately for the 'working children' of our day they have two alert and formidable champions, organized labor and women's clubs, backed up by the few social settlements and in some quarters by the increasing aggressive attitude of the churches.—Professor Graham Taylor.

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