

ANGLIN J.

SEPTEMBER 7TH, 1906.

WEEKLY COURT

LONDON AND CANADIAN LOAN AND AGENCY CO.
v. NATIONAL CLUB.

Injunction—Interference with Ancient Lights—Interim Injunction—Erection of Building—Speedy Trial.

Motion by the plaintiffs to continue an injunction restraining the defendants from erecting a building close to the plaintiffs' building on Bay street, in the city of Toronto, in such a manner as to exclude light.

S. H. Blake, K.C., and B. N. Davis, for the plaintiffs.

A. C. McMaster, for the defendants.

ANGLIN, J.:—It would not perhaps be wholly satisfactory to determine upon the present material whether or not the construction of the defendants' projected building will so interfere with light to which the plaintiffs claim to be entitled, that the occupation of their premises will be thereby rendered "uncomfortable according to the ordinary notions of mankind." As this action must go down for trial in due course, it seems to me undesirable in disposing of the present motion to enunciate any propositions of law which might prove embarrassing at a later stage. I therefore abstain from stating conclusions to which consideration of the authorities cited, with others, has led me.

But a case of intended substantial interference by the defendants with what are admittedly ancient lights of the plaintiffs has been prima facie established.

In the case of the western aperture this projected interference amounts to total extinction. It is better in the interest of the defendants, quite as much as in that of the plaintiffs, that the question at issue should be determined before, rather than after, the construction of the defendants' building. There need be no difficulty in having a speedy trial of this action. In the exercise of that discretion which always governs the Court in dealing with interim injunctions, it will, I think, be proper to preserve matters in statu quo until the trial is had. Upon the plaintiffs undertaking to bring this