NUISANCES FROM NOISES.

It is often a matter of interest to know how far noises must be endured before there is a possibility of legal redress. A few years ago, a Mr. James Redding Ware, a literary gentleman, occupying chambers in Lincoln's-Inn-fields, applied for an injunction against a Mr. Corpe, to restrain the defendant from doing an act which was alleged to be a nuisance. The plaintiff, it appears, occupied chambers on the third floor, on which he had expended a considerable sum of money, having taken them in a dilapidated condition. The defendant, who occupied chambers on the second floor directly under those of the plaintiff, bought last summer an organ, which was forthwith conveyed to his premises. The approximate dimensions of the said organ, which occupied half of the room, were stated to be 12ft. high, 10ft. wide, and 4ft. or 5ft. deep. The plaintiff, not unnaturally, protested strongly against the introduction of such an instrument into such a place, but to no purpose; the reply was, it would make less noise than a piano, and that no nuisance to anybody would be caused by the playing. We will quote the plaintiff's own words as to the reasons on which he based his application for relief: "The organ," he said, "had been played at different periods since (*i. e.*) last summer, about two or three times a week; he stayed in once for about three hours, during which it was being played, and found that it so interfered with his comfort and the performance of his work that whenever it commenced he had to leave the house. It was usually played from seven o'clock until ten o'clock in the evening, and the vibration was very great, causing an effect very like that produced by a single application of galvanism. On the first day it was played, a Dresden plate in his room was thrown down; the vibration communicated itself to all the articles in his room, composed of china, glass, or metal.* * * The music was very bad, and very common airs were played." The evidence given by the plaintiff was corroborated by other gentlemen who occupied other adjoining chambers, one of whom stated that he was quite incapacitated from doing his work in his sitting-room, where his books and papers were, during the time that the organ was being played. Some contradictory testimony was given on the other side, with the view of showing that no such nuisance as was alleged by the plaintiff did in fact exist. The County Court judge, however, considered the nuisance an "intolerable one," but gave judgment in favor of the defendant, on the ground that it was not such a nuisance as formed the subject matter of an action.

On the above case, the *Law Times* remarked:

"Nuisance," says Blackstone, "is anything that worketh hurt, inconvenience, or damage," but many acts which may properly come under the above definition would not be the subject of an action. In other words, there are nuisances and legal nuisances. The principle upon which the rule of law proceeds is, "*sic utere tuo ut alienum non lædas.*" But it must not be inferred that an action can be maintained for a thing done merely to the inconvenience of another—mere inconvenience or annoyance does not always constitute a legal nuisance. If the authorities on the subject come to be examined, the real test, we apprehend, is this: Is the act complained of such as a man might reasonably commit in the exercise of his rights, having regard to all the circumstances of the case? Or, to use the words of Vice-Chancellor Bruce, Walter *v.* Selfe, 4 DeGex and Sm., 315: "Will the proceedings abridge and diminish seriously the ordinary comforts of existence of the occupiers, whatever their rank or station, or whatever their state of health may be?" See also, Crump *v.* Lambert, L. Rep., 3 Eq., 409. If so, the nuisance is actionable. A reasonable use of a man's property ought in right to be permitted: but if a person puts his premises to unusual purposes, so as to cause his neighbor a substantial injury, the latter is entitled to be protected, because that is not a reasonable use of his property. See the remarks of Lord Selborne, when Lord Chancellor, in Ball *v.* Ray, L. Rep., 8 Ch. App. A man's occupation of his house may be rendered materially uncomfortable, and yet the act complained of, *e. g.*, the noise of a neighbor's children in a nursery, may not be a subject of redress; because, as Lord Justice Mellish said, in Ball *v.* Ray, "the noise is such as he must reasonably expect." Acting on this principle, Vice-Chancellor Bacon decided, in Harrison *v.* Good, 40 L. J., 294 Ch., that the establishment of a national school, however much it might injure and depreciate the adjoining neighborhood, was not an actionable nuisance. The mere fact of the depreciа-