

plaintiff repaid to the defendants the sum he had received from them, but without any further interest. Joyce, J., held that the plaintiff was liable to pay interest on the amount refunded from the time he received it from the defendants down to the time he repaid it.

**NUISANCE—NOISE—VIBRATION—ELECTRIC GENERATING STATION—INJUNCTION.**

*Colwell v. St. Pancras* (1904) 1 Ch. 707, was an action to restrain a nuisance caused by the erection and operation by the defendants of an electric generating station whereby, owing to the noise and vibration thus occasioned, the plaintiffs were damaged. The station had been erected by the defendants under a provisional order made under a statute, which order, however, expressly declared that nothing therein contained should exonerate the defendants from an action for nuisance in the event of any being occasioned by them. It was admitted that the vibration caused by the defendants' machinery was an actionable nuisance, unless it was excusable as being merely temporary and the defendants alleged that the nuisance could be obviated in time by experiment and alteration of the machinery, and contended that until the machinery was perfected their works were not complete and the action would not lie. Joyce, J., however, was of opinion that the nuisance could not properly be called merely temporary or occasional, and that the plaintiffs were under no obligation to put up with the nuisance occasioned by the noise and vibration of the defendants' machinery until they had succeeded in finding some means of using it without creating a nuisance, and he granted the injunction as asked.

We need scarcely say that the article in our issue of June 1st regarding evidence of accused persons and their privilege as to comment was not intended as a review on the subject, but merely to call attention to the divergent views in Scotland and Nova Scotia. In Ontario, as our readers are doubtless aware, the subject was discussed in *Reg. v. Coleman*, 30 O.R. 93; 2 Can. Cr. Cas. 523, and the rule there settled is the same as in Nova Scotia. The old and the new Scotias differ. We think those of the "Mayflower" and not those of the "Thistle" are in the right.