

tinuing a nuisance. The defendants were an electric lighting company, which, under a statute in that behalf, was incorporated for the purpose of supplying electricity for the purpose of light, etc. The company erected powerful engines and other works near to a house, which was subject to a lease. Owing to excavations for foundations for the engines, and to vibration and noise from the working of them, structural injury was caused to the house, and annoyance and discomfort to the lessee. The lessee and the reversioners brought separate actions for an injunction and damages in respect of the nuisance and injury thus occasioned, which were tried together. The defendants claimed to be protected by the Act under which they were incorporated, and which authorized the erection of their works; but Kekewich, J., held that the statute, although it authorized the construction of the works, did not exonerate them from liability for nuisance in carrying them on; and he also held that the plaintiffs were not deprived by the Act of their right of action or compelled to seek for compensation under the compensation clauses. He, however, held that the case was not one for an injunction, because of the public inconvenience which would be caused by the stoppage of the defendants' works, but was one for damages. On appeal by both plaintiffs, the Court of Appeal (Lord Halsbury, and Lindley and Smith, L.JJ.) differed from Kekewich, J., as to the propriety of granting an injunction; their lordships holding that, although Lord Cairns' Act (see R.S.O., c. 44, s. 53, s-s. 9) gives the court jurisdiction to award damages in lieu of an injunction, yet it was not intended to revolutionize the principles of equity as to granting injunctions, and that in cases, such as this, of continuing actionable nuisance, the jurisdiction so conferred should only be exercised under very exceptional circumstances, and where damages would be an adequate remedy; and that in the present case there was nothing to justify the court in refusing to aid the legal rights established, by an injunction preventing the continuance of the nuisance; and an injunction was granted, accordingly, in favour of both plaintiffs. In the report of this case, as well as some others, we observe that the *dicta* of particular judges are incorporated in the headnote. It is, perhaps, presumptuous to find fault with this, which is probably due to the new editor, and yet we cannot help thinking that it is no improvement to the reports; of course, opinions on this point