CHAPTER XII. INJUNCTIONS; GENERAL PRINCIPLES--INJUNCTION TO PROTECT EQUITABLE ESTATES AND INTERESTS. ANALYSIS.

262. General nature and object--Abstract of statutes. 263. Fundamental principle. 264. Preliminary or interlocutory injunctions. 265-269. Injunctions to protect purely equitable estates or interests, and in aid of purely equitable remedies. 266. Instances; to restrain breaches of trust. 267. To restrain violation of confidence. 268. Same; disclosure of trade secrets. S 269. Other instances. 262. General Nature and Object--Abstract of Statutes. "The remedy of injunction was undoubtedly borrowed by the chancellors from the 'interdicts' of the Roman law.1 An injunction may be either a final remedy ob 1 "As
Gaius' Inst., lib. 4, i 138-170; Poste's ed., 492-520; Just. Inst., lib. 4, tit. 15, 1-8; Sandars' ed., 1st Am. ed., 58, 570-580. The general definition as given by Gaius (Id., 139) is as follows: 'Under certain circumstances, chiefly when possession or quasi possession [i. e., possession of a servitude] is in dispute, the first step in the legal proceedings is the interposition of the practor or pro-consul, who
commands some performance or forbearance; which commands, formulated in solemn terms, are called interdicts. 'The most general formula was 'vim fieri veto, exhibeas, restituas,' 'I forbid you to use violence, you must produce, you must restore.' There were thus three distinct species of interdicts: 1. The prohibitory, where the defendant was commanded to refrain or desist from some act, answering to our ordinary injunction; 2. The exhibitory, where the defendant was commanded to produce and exhibit something in his...
A bill was brought to cancel numerous notes held by several defendants, all purporting to have been made by the complainant, and claimed by him to be forgeries. The court, while recognizing the jurisdiction in cases of the "fourth class," says: "It is not enough that the grounds of the invalidity of the several instruments are, as in this case, similar. So far as the instruments sought to be cancelled here, as forged, are concerned, the forgeries are several. The ground of the invalidity of these notes is not a common one within the sense of the cases cited. The character of one of these notes, as to its being forged, has no bearing as to the others. The questions touching the validity of these notes are as several as the holdings. There is, in other words, a multiplicity of issues of facts to be tried, which the jurisdiction invoked cannot avoid or lessen."* A party owning and maintaining a dam across a river, under a claim of right so to do, cannot maintain an action in the nature of a bill of peace against two groups of parties, who have brought separate actions against him to recover damages for alleged torts claimed to have been done to them by reason of the dam; one group claiming to be injured by back-water resulting from the maintenance of the dam at an unlawful height; the other claiming to be injured by the diversion of the water. "The causes from which the injuries to the parties respectively resulted, instead of being coincident, are divergent."* Persons whose alleged inter v. Kaye, 168 N. Y. 196, 61 N. E. 177, 2 Ames Cas. Eq. Jur. 89. Compare Bailey v. Tillinghast, 99 Fed. 801, 806, 807 (C. C. A.), post, note to 261, Fourth Class, (I), (h), where a common question existed between the receiver and each shareholder. In...
...legacies are governed by certain rules which distinguish them from other kinds, and which determine the rights of the legatees with respect to them. Of these rules the most particular and distinctive is that of ademption. Ademption is the taking away or removal of the legacy; or in other words, the extinguishment of it as a legacy, so that the legatee's rights under or claim to it are gone. The doctrine of ademption results from the very nature of a specific legacy as already defined. By its very nature as the gift of a specific, identified thing, operating as the mere gratuitous transfer of the thing without any executory obligation resting on the testator or his personal representatives, it follows that unless the very thing bequeathed is in existence at the death of the testator, and then forms a part of his estate, the legacy is wholly inoperative; the legatee has no right or claim; the executors are under no obligation to replace the thing by purchasing another one of the same kind as 438; Sampson v. Sampson, L. R. 8 Eq. 479; Farquhar v. Hadden, L. R. 7 Ch. 1. Residuary bequests: A specific legacy may be included in a residuary bequest: Mills v. Brown, 21 Beav. 1; Davies v. Fowler, L. R. 16 Eq. 308; Golder v. Littlejohn, 30 Wis. 344. It will appear in the sequel that where a testator gives a bequest not of or a part of specific property, but the property is merely designated as the particular fund out of which the legacy is payable, such a legacy is or may be demonstrative, not specific; but where the testator deals with specific property belonging to himself, not by giving legacies or sums of money out of it, but by dividing and apportioning out the very property itself, or the proceeds of it if it is directed to be sold and...
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