

commutative justice can be administered, it is the duty of the court to give the party complained of an opportunity of being heard. To restrain a defendant from making any abusive use of the property in question; or from disposing of it past recall, amounts to no more than the imposition of a temporary limitation upon the free exercise of his rights, even if it should eventually appear to be entirely and rightfully his; which is quite as far as any court can go in the first instance; and as preparatory to a fair and beneficial hearing and final adjudication. To order a defendant to pull down or remove any erection would be obviously and directly to deprive him of a portion of that which then, at least, appeared to be his property, and was so claimed by him; and that too, at once, and without a hearing; for a house, a fence, or the like has a value, as such, which would be totally destroyed by its being pulled down, and which does not belong to the materials of which it was composed, however carefully they may be preserved.

The only object of the conservative power of the court, as expressed in an injunction of this kind, is, not to determine any controverted right, but merely to prevent a threatened wrong, or any further perpetration of injury, or the doing of any act thereafter whereby the right to a thing may be embarrassed, or endangered, or whereby its value may be materially lessened, or the thing itself may be totally lost. The principal object of an injunction, in cases of this kind, is to prevent irreparable injury by preserving things in their present state; but if the injunction were to order any thing to be pulled down or undone, it is obvious, that it might be, itself used as a means of producing that very kind of irreparable injury to the defendant which the bill charged him with being about to perpetrate against the plaintiff. (g)

There are, however, some cases in which an injunction has been so framed as, apparently, to approach to the very verge of ordering a thing to be undone. As where the regular flowing of a stream of water had been so interrupted by the making, or the interposition of occasional breaches or obstructions, as to be very injurious to the use of it for a canal, or for propelling a mill; an injunction which commanded that the party should not thereafter *continue to cause* the stream to flow thus irregularly, seemed indirectly to command, and no doubt did involve the repairing of the breaches, and the removing of the obstructions which had caused