

in departing from the general rule. That where a plaintiff is in possession and the person doing the acts complained of is an utter stranger, not claiming under color of right, then the tendency of the Court is not to grant an injunction, unless there are special circumstances, but to leave the plaintiff to his remedy at law; though if the acts tend to the destruction of the inheritance, the Court will grant an injunction. That where a plaintiff in possession seeks to restrain one who claims by an adverse title, the tendency of the Court will be to grant the injunction, at least when the acts committed do or may tend to the destruction of the estate. There a person, not being in possession of an estate, claimed it as heir at law and entered upon it, cut down trees and dug sods, and threatened to repeat his conduct in order to establish his title as against the possessor, who by himself and his ancestors had been in possession of the estate for more than eighty years, and it was decided on a bill filed by the possessor against the claimant, that as the defendant's acts might be injurious to the inheritance, he must be restrained by injunction from committing them.

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CAP. XV.

An Infant eloined may sue by *Prochein Amy*.

In every case whereas such as be within Age may sue, it is ordained, that if such within Age be eloined, so that they cannot sue personally, their next Friends shall be admitted to sue for them.

In omni casu quo minores infra etatem implacitari possunt concessum est quod si hujusmodi minores elongati sint quo minus personaliter sequi possint propinquoires amici admittantur ad sequendum pro eis

Infant's suit. Dyer, 104. 2 Ed. 3, 16. 40 Ed. 3, 16. Bro. Gardein, 13, 22, 24, 25, 26, 27. Regist. 78. 2 Inst. 390. 3 Ed. 1, c. 47.

At common law an infant sued by guardian, but as infants were frequently secreted by their guardians it became necessary to make another provision, which is made general by this Act. So, though it in terms refers to infants *eloined*, it is held that the *eloinement* is put only to shew what mischief may fall out, and therefore an infant may sue by *prochein ami* whether he is eloined or not. And so the general rule is that an infant *must* sue by next friend or guardian, the common law not being excluded by the Statute, Davis v. Jacquin, 5 H. & J. 101, and de-