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ARTICLE VIII.

INJUNCTIONS AND STRIKES.

BY HON. WILLIAM H. UPSON.

WITHIN the past few years injunctions have been so often used to prevent the unlawful acts which frequently accompany strikes, that many persons suppose such means to be the result of new rules of law adopted by the courts, rather than the application of long-established principles; and that the judges have usurped the power of legislating, instead of only interpreting and enforcing laws already made. On this account there has been much clamor, and prejudice against the courts, for this resort to what has been called judge-made law in favor of corporations. Public attention has been especially directed to this subject by the great extent and importance of recent strikes. A brief statement will show that there is no ground for the charge referred to, and that the use of injunctions in such cases is not only not new, but is in accordance with the plainest principles of right and justice.

An injunction is a judicial process, or order, requiring the person to whom it is directed to do, or refrain from doing, some particular thing.

This general definition will answer the purposes of this article, without referring to the different kinds of injunctions. Under the name of interdicts injunctions were, more than thirteen hundred years ago, known to the Roman law, from which they were borrowed by the English law, and from that by our own; and they have been used in this country ever since our courts of justice have been established.

Persons are generally obliged to enforce their rights by

actions to recover damages, or by other legal remedies, but there are many cases in which those do not afford complete, or full, protection, and then the party is entitled to an injunction or other equitable remedy, and it certainly seems much better to prevent a wrong than to allow its commission, and then try to punish the wrongdoer, and compensate the injured person.

The general principle, as stated by the best authorities, is that wherever a right exists, or is created by contract, by the ownership of property or otherwise, cognizable by law, a violation of that right may be prohibited by injunction if the ordinary legal remedies are not complete and adequate.

Injunctions are used to prevent the sale of promissory notes obtained by fraud—to prevent the collection of illegal taxes—to restrain cities and villages from making contracts in violation of law—to prevent the unlawful use of streets, or of private property, by railroad companies—to prevent infringement of patents and the commission of frauds. Many other examples might be given, but these are enough to illustrate the general principle.

Injunctions may be granted either to prevent the gaining of a lawful object by unlawful means, or the gaining of an unlawful object by any means, whether lawful or unlawful, and it is for such purposes that they are properly granted in connection with strikes.

A strike is a general quitting of work as a coercive measure, as when higher wages, or shorter hours, are demanded, or a reduction of wages is resisted, and strikes have been resorted to for those, and other purposes, for more than two thousand years past. Livy describes one which took place at Rome three hundred and ten years before the birth of Christ, and about the end of the fifth century, in the reign of the emperor Zeno, a Roman ordinance provided that "No one shall hinder another from continuing a work that has been begun by another, as we are advised certain

artisans and contractors have dared to do, not being willing themselves to finish what they have commenced nor to let others finish it, and so have caused serious loss to those who had employed them."

Preventing others from working, either by actual violence, or by threats and intimidation, has so often occurred in connection with strikes, that many regard it as a necessary part of them, and in a recent case a judge of one of the Circuit Courts of the United States, in his decision said: "A strike is essentially a conspiracy to extort by violence; the means employed to effect the end being not only the cessation of labor by the conspirators, but by the necessary prevention of labor by those who are willing to assume their places."

This is not, however, a true statement, for in very many cases the object of a strike is good, and the means used to effect it are lawful and right. The question then arises, When may a court of equity properly interfere, by injunction, with the carrying on of a strike? and the answer is, Whenever the object of the strike is unlawful, or the means used to make it successful are unlawful, and the ordinary legal remedies do not furnish full, complete and adequate relief. In giving relief in such cases the courts are governed by the same principles which they apply to all similar violations of law, and by no others.

When a large number of men combine to carry out their plans by threats, force, and the destruction of property, it is evident that actions which are brought in ordinary cases to recover damages would be of no use whatever. If men have the right to labor for whom they please, and for such wages as they choose to accept, and if they have the right to manage their own business in their own way, so long as they do not interfere with the rights of others, those rights must be maintained by any government which professes to be a government by the people. A single case, that of Arthur *vs.*

Oakes, will illustrate the power of courts of equity in that respect, and the limits of that power. The Northern Pacific Railroad was in the possession of receivers appointed by the United States Circuit Court, and an injunction was granted, by that court, by which the employés of the receivers, and all persons, associations and combinations, were, among other things, enjoined "from disabling, or rendering in any wise unfit for convenient and immediate use, any engine, cars or other property of the receivers," "from interfering in any manner by force, threats or otherwise with men who desire to continue in the service of the receivers, or with men employed by them to take the place of those who quit," and "from interfering with or obstructing in any wise the operation of the railroad, or any portion thereof, or the running of engines or trains thereon as usual."

To this extent the injunction was sustained by the United States Circuit Court of Appeals, in accordance with the principles before stated.

The Circuit Court had, however, also enjoined the employés "from so quitting the service of the said receivers, with or without notice, as to cripple the property, or prevent or hinder the operation of said railroad."

This part of the injunction the Circuit Court of Appeals refused to sustain, on the grounds that a court of equity will not, under any circumstances, compel one man to work for another—that to do so would be an invasion of one's natural liberty, and would place a man in a condition of involuntary servitude forbidden by the Constitution of the United States.

In some instances courts may have granted injunctions without due regard to the rights of individuals, or of labor organizations, but not in many; and so long as they administer justice impartially, without fear or favor, no one has reason to complain, least of all those who have neither wealth nor great influence, and most need the protection of the law.

ARTICLE IX.

MEMORIAL NOTES.

JOHN ALBERT BROADUS.

BORN in a region prolific of great men, and of a family noted for piety and talent, reared under the best conditions for healthy development, in a Christian home, in the country, where he was free alike from the dangers of wealth and of poverty, with the best opportunities for culture of mind and heart, and without the temptations too often called "advantages," John Albert Broadus grew to a noble and consecrated manhood. Within a small radius of the place in Culpepper county, Va., where he was born, Jan. 27, 1827, three Presidents of the United States first saw the light,—Jefferson, Madison, and Monroe,—besides many others famous in cabinet, in field, in literature, and in professional life. The father of Dr. Broadus was Major Edmund Broadus, a school teacher and a farmer at first, and afterward a politician. He acquired great influence over his community and they called him time and again to represent them in the legislature. His candidacy was always equivalent to an election, though he did not lack for able opponents. His speeches were calm, clear, and convincing. The people never failed to see what he meant. The young son accompanied his father in his canvassing tours, and thus learned his first lessons in public speaking.

Completing the courses of study in the schools of that region, the young man entered the University of Virginia, where in 1850 he graduated with distinction as Master of Arts. This degree he ever prized more highly than the honorary degrees that came to him afterward. He was at once appointed Assistant Professor of Latin and Greek, at the same time becoming pastor of the Charlottesville Baptist Church. This double work he continued for two years, when he gave up teaching and devoted himself wholly to the pastorate. In 1855 he became Chaplain of the University, and at the end of his two years' term, he served the church for two years more. The period of his pastorate was the golden age in the history of that church, recalled with vivid and unflagging interest by the survivors of that time.

It was in 1859 that he was called to join with J. P. Boyce, Basil Manly, Jr., and William Williams in establishing the Southern Baptist Theological Seminary. It was a new departure in theological education that was proposed. The aim was to plant an institution suited to the varied

needs of the Baptist ministry in the South. Any preacher who would come must find what is suited to his wants—those of the meagerest attainments as well as the masters of arts. Those who could remain but a short time must also be enabled to use that time to the best advantage. The adaptation of the course to those of least preparation must not lower the standard or retard the progress of those well prepared. This difficult and delicate problem was most happily solved. More and more are the methods used in this institution being adopted by other seminaries, and some of us believe that ere many decades these methods will be universal.

The various departments of study were arranged into separate "schools," some requiring one year and some two years to complete the course. The student took such schools as his capacity and preparation warranted, and got full credit for all he accomplished. The completion of each school entitled the student to a diploma, and the completion of the nine schools was necessary to a diploma of full graduation. In some of the classes masters of art and men ignorant of the classics sat side by side and studied together with mutual profit. No lowering of the standard was required; and no seminary in the world has maintained a higher standard of scholarship.

Dr. Broadus was very reluctant to lay down the work of a pastor in order to take up that of a theological professor, and it was only when the call of duty became positive that he consented. Many have wondered how he could have succeeded so signally in a work he was so reluctant to undertake: but this very reluctance was one of his highest qualifications for this service. A great preacher who longs to preach, but is hindered, is ever the best man to train preachers. The very fact of his longing to engage in such service gives him a fine enthusiasm which else were impossible.

Yet he has done a great deal of the noblest preaching, which was a goodly part of the work of his life. During his summer vacations he would supply prominent pulpits. At conventions and other religious gatherings he was pressed into service, when Sunday came, and "Where will Dr. Broadus preach?" was the question on every lip. He was in great demand also to preach dedication sermons, and was often called forth when there was no special occasion. If he was visiting any of our cities and remained over Sunday he was sure to preach and the simple announcement would pack any audience room. Often he spoke to me of how he loved to preach and would say playfully, "I do not wish you any harm, but frequently when Sunday morning comes I have a sort of wish that something, some slight indisposition, would prevent your preaching, and you would send around a request for me to fill your pulpit." He was one of the few great preachers of the world. I remember soon after coming to Louisville I got him to preach one Sunday morning. Sitting in adjoining pews were the great man of science, Dr. J. Lawrence Smith,

and a ten-year-old boy; and they were observed to listen with equal interest to the clear and strong sermon of the great preacher. All classes heard him with equal delight if not with equal profit. There was no attempt at eloquence, no array of flowers of rhetoric, no exhibition of learning and no *sesquipedalia verba.* The great truths of religion were presented with crystal clearness and with deep impressiveness, in a manner perfectly natural. One cannot forget a sermon he heard from Dr. Broadus. I can never forget the first sermon I heard from him. It was in June, 1867, at the Commencement of the Washington and Lee University, Lexington, Va. It was a brilliant assembly gathered to hear from the great preacher one of his greatest sermons. With perfect simplicity and naturalness he talked on about "one Jesus, which was dead, whom Paul affirmed to be alive" (Acts xxv. 19), and soon we all forgot about the occasion and the preacher, and thought only of Jesus. It was a wonderful sermon. One of the professors, not a Christian, remarked that ten thousand pages of literature lay behind that sermon, but more and better than this, a deep and rich Christian experience lay behind it.

As a teacher Dr. Broadus was preëminent. He rose to his greatest height in the class room. It was worth a journey to see him teach. The skill with which he would get hold of the minds of the students, the deep and kindly sympathy he manifested for them, the great value he attached to the lessons, and the thorough mastery of the subject he unconsciously exhibited, made him one of the few really great teachers our country has produced. At times he would make appeals of surpassing tenderness and power to the students, so that to make notes was impossible, and yet the lessons were more deeply impressed upon their minds and hearts than could have been done by notes and subsequent study. Those who sat at his feet will remember through life many such incidents in the class room.

This wonderful teacher knew thoroughly the material on which he had to do his work. He measured every student with astonishing accuracy, and adapted his instruction to each case with consummate tact. Reverence for his character, respect for his abilities, regard for his attainments, and love for the man filled his students with an enthusiastic devotion as rare as it was beautiful. His aim was to make them real and faithful gospel preachers and manly men, by God's blessing. He sought not to tell them something they did not know before, and to fill their minds with information, however useful. He sought rather to make them something different from what they were before, and to fit them for the high service to which God had called them. His best work was done on the fifteen hundred students whom he trained for service in his class room, and whose work since has multiplied their teacher, and will multiply him to the end.

Without doubt, Dr. Broadus would have been famous had he done nothing else than produce the literature he has left us. Much of his

writing was in the form of newspaper articles, which ought to be gathered and put into permanent form. He wrote also a number of pamphlets on important subjects; such as, "Three Questions concerning the Bible;" 'Ought Women to speak in Mixed Public Assemblies?" "Glad Giving," etc. "The Preparation and Delivery of Sermons" was his first book, issued in 1870. This at once commanded the attention of pastors and theological professors, and it was soon adopted as a text-book in various seminaries in this country and in England and Canada. It has held its place with increasing popularity for a quarter of a century, and it promises to do so for a good while to come. It is full of "saving common sense," and is studied by lawyers, legislators, and others interested in public discourse.

His next book was "The History of Preaching," which appeared in 1876, and was well received; but not till 1886 did his greatest work, and the chief monument to his scholarship, appear, his "Commentary on Matthew." Here we see the profound scholar and the loving disciple. This was his *chef d'oeuvre*, and many of us believe it is the best commentary on Matthew in existence. In the same year appeared his "Sermons and Addresses." Four years later (1890) came his "Jesus of Nazareth," a heart tribute from the disciple to his Lord. The chapters of this book were delivered as lectures at the Johns Hopkins University, just as his "History of Preaching" was delivered at Yale. Next to the Commentary on Matthew in permanent value stands his "Harmony of the Gospels," which appeared in 1893, and at once took rank as the best book of its kind. His last work was his "Memoir of Dr. J. P. Boyce," his life companion and friend, his fellow-worker and associate. This is a masterpiece of biography and deserves to rank with the great biographies of English literature.

Important work Dr. Broadus also did in the cause of higher education. His address on "A College Education for Men of Business," has stimulated many a young man to high endeavor in securing a training of mind and heart before entering on the work of life. He was trustee of the Slater Fund, for the education of the Negroes of the South, and no member of that board did more effective service. For years he was a close student of the Negroes, and it was he who first called attention to the fact that there are in the South three distinct races of Negroes, with widely different capacities. He was engaged to prepare the article on the Negroes for Johnson's Encyclopedia, and no more valuable contribution to the literature of the Negro problem has been made.

For years Dr. Broadus was a member of the International Sunday-School Committee, and of his work in that capacity Dr. Moses D. Hoge says: "When we were gathering at the place of rendezvous, as we were greeting each other, the first question would be, 'Has Dr. Broadus come yet?' And after it was known that he was present, there was a feeling of satisfaction that the work would be safely and well conducted." Often

the work of the Committee was simply to confirm and carry into effect what Dr. Broadus had wrought out.

Beside all this, Dr. Broadus did a great deal of quiet personal work in moulding and uplifting the characters of those with whom he came in contact. It was his delight to talk to children, and they were ever delighted to hear him. He would talk to a boy, and the boy would have a higher ideal and a nobler ambition. In his intercourse with men Dr. Broadus ever sought to make himself helpful, and many are the characters which have been blessed by his quiet personal ministry. On the Sunday after the funeral, the Rev. Dr. Adolph Moses, Rabbi of the Jewish Temple in Louisville, delivered a memorial discourse in honor of his friend, and among other things said: "Before I became familiar with Dr. Broadus, I knew Christianity only as a creed which seemed absolutely incomprehensible to me. I judged it mainly from the untold, unmerited misery, the agony of ages, which Christian rulers and nations had entailed on poor Israel under the impulse given by Christian priests and teachers. But when I learned to know and revere, in Dr. Broadus, a Christian who was truly a man of God, in whom there was the spirit of justice and mercy, the spirit of brotherly love toward all men, without distinction of nationality, race or creed, my conception of Christianity and my attitude toward it underwent a complete change. For the first time in my life, Christianity presented itself to me, not as a bundle of unfathomable dogmas, but as a living power for good, as actualized in an ideal man."

T. T. EATON.

LOUISVILLE, KY.

JAMES DWIGHT DANA.

THE death of Professor Dana, on the fourteenth of April, 1895, removes from the world at once one of its most prominent men of science and one of its most devoted Christian believers interested in the work of harmonizing the diverging tendencies between science and faith.

James Dwight Dana was born February 12, 1813, in Utica, N. Y., not far from the native place of Professor Asa Gray, with whom he was so long associated in editing the *American Journal of Science*. He graduated from Yale College in 1833, and in 1838 joined the Wilkes Expedition, and was absent till 1842, circumnavigating the globe. In 1850 he was appointed Professor of Natural History in Yale College, but did not begin his work until he had completed his report on the Wilkes Expedition, in 1855.

His publications have been too numerous for us to mention here. His "System of Mineralogy" was first issued in 1836, and in successive editions has continued to be the standard authority on that subject. The fourth edition of his "Manual of Geology," entirely rewritten and enlarged to twelve hundred pages, was issued a few weeks before the au-

thor's death, and makes a fitting monument to his life's work. Professor Dana had been honored by degrees from the Universities of Munich, Edinburgh, and Harvard, in addition to membership in nearly all the scientific societies of the world.

Turning to the topics more directly related to the aims of this Review, we note that in 1856 and 1857, Professor Dana published in the BIBLIOTHECA SACRA five articles upon "Science and the Bible," and "On Species," which have been quarries to which subsequent writers have constantly resorted for material. These developed and defended the views of Arnold Guyot, who had just come to this country, and found in Professor Dana an appreciative and life-long friend. In the *New Englander* he published articles of a similar character in 1859 on "Anticipation of Man in Nature," and in 1863 on "Man's Zoölogical Position" and on "Cephalization." In 1885 he furnished the BIBLIOTHECA SACRA with his last formal contribution to the Harmony of Science and Revelation in an article entitled "Creation; or the Biblical Cosmogony in the Light of Modern Science." This has been translated into Japanese, and also republished in a convenient form for circulation.

Professor Dana never fully accepted the Darwinian theory of development, though his views were so much modified that he is to be classed among the evolutionists who minimize the influence of natural selection, and give prominence to the theistic element. He recently wrote, "While admitting the derivation of man from an inferior species, I believe that there was a divine creative act at the origin of man; that the event was as truly a creation as if it had been from earth or inorganic matter to man. I find nothing in the belief to impair or disturb my religious faith —that is, my faith in Christ as the source of all hope for time and for eternity. The new doctrines of science have a tendency to spread infidelity; but it is because the ideas are new and their true bearing is not understood. The wave is already on the decline, and it is beginning to be seen more clearly than ever that science can have nothing to say on moral or spiritual questions; that it fulfills its highest purpose in manifesting more and more the glory of God."[1]

[1] Letter to Rev. John G. Hall, March 7, 1889, printed in the Christian Advocate, N. Y., May 16, 1895.