

Case No. 968. BAPTIST MISSIONARY UNION v. TURNER.
[6 McLean, 43.]¹

Circuit Court, D. Michigan.

June Term, 1853.

PRACTICE—NOTICE OR TRIAL—INJUNCTION TO STAY PROCEEDINGS.

Where an injunction has been applied for to stay proceedings at law in a bill to quiet title, on the ground that the remedy at law was not adequate; a notice by the complainant that he will insist on the trial at law, is necessary, so that the witnesses by [for] the plaintiff at law may be summoned.

[At law. Action of ejectment by the Baptist Missionary Union against Israel Turner.]
Frazer & Davidson, for plaintiff.

Patterson, Vanamringe & Gould, for defendant.

OPINION OF THE COURT. This is an action of ejectment where a bill has been filed to stay proceedings by injunction and quiet title on the ground that there was not adequate relief at law. The bill in chancery was continued at the last term with leave to amend. It is now insisted that the case at law shall be tried.

The plaintiff's counsel at law contends that without notice from the complainant in equity they cannot be ruled to a trial.

THE COURT held, a notice was necessary, as the party could not know that the complainant in equity would not insist on a hearing; that until notice, the plaintiff at law could not be expected to have his witnesses brought before the court.

¹ [Reported by Hon. John McLean, Circuit Justice.]