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The word "vehicle" by its derivation and definition is comprehensive enough to include watercraft and aircraft.¹² Yet no cases have been found including boats or aeroplanes under this general term.¹³ Statutes intended to apply to aircraft as well as to landcraft have expressly referred to both classes,¹⁴ as the legislature presumably would have done in the instant case if such were its intent. Statutes defining crimes are not to be extended by the courts by intentment on the grounds that they should have been made more comprehensive.¹⁵ "Vehicle" is understood generally to signify a conveyance operating on land. The court in the case under discussion has followed the common sense doctrine that "words of a statute are to be interpreted in accordance with the understanding of the common man from whose vocabulary they were taken."¹⁶

TRAVIS BROWN.

Equity—Injunction Against Unauthorized Veterinary Practice.

Two veterinary surgeons brought suit in a Virginia court to restrain from further practice of the profession one who had obtained his license without taking the examination required by statute. *Held*, No cause of action stated¹

This seems to be the first American case to reach a court of final jurisdiction in which members of a licensed profession have sought to cut off the competition of an unlicensed practitioner by injunction. But an injunction was denied in a similar case by an Ohio Circuit

¹² See *McBoyle v. U. S.*, 43 F. (2d) 273, 274 (C. C. A. 10, 1930).

¹³ See *Duckwall v. City of New Albany*, 25 Ind. 283, 286 (1865) (A ferryboat is not a vehicle. The word "vehicle" is rarely applied to watercraft); *Farmers' & Mechanics' National Bank v. Hanks*, 104 Tex. 320, 137 S. W. 1120, 1125 (1911) (an elevator is not a vehicle); *Davis v. Petrinovich*, 112 Ala. 654, 21 So. 344 (1896) (vehicle defined as any carriage moving *on land*, either on wheels or runners); *Conder v. Griffith*, 61 Ind. App. 218, 111 N. E. 816, 818 (1916) (vehicle any carriage or conveyance capable of being used as a means of transportation *on land*). See definition of motor vehicle in N. C. PUB. LAWS (1927), c. 122, §1 (patterned after the Uniform Motor Vehicle Registration Act).

¹⁴ 42 STAT. 854, 948 (1922), 19 U. S. C. A. §231b (1927) (including all forms of transportation on land, water, or in air); MASS. STAT. 1923 c. 370 (referring to aircraft, watercraft, or vehicle).

¹⁵ See *U. S. v. Chase*, 135 U. S. 255, 262, 10 Sup. Ct. 756, 758, 34 L. ed. 117, 120 (1890); *State v. Bishop*, 128 Mo. 373, 31 S. W. 9, 12, 49 Am. St. Rep. 569, 575, 29 L. R. A. 200, 208 (1895).

¹⁶ See *U. S. v. Bhagat Singh Thind*, 261 U. S. 204, 209, 43 Sup. Ct. 338, 341, 67 L. ed. 616, 620 (1923); *Church v. Mundy*, 15 Ves. 396, 406 (1808); *Town of Union v. Ziller*, 151 Miss. 467, 118 So. 293, 294 (1928).

¹ *Drummond v. Rowe*, 156 S. E. 442 (Va. 1931).

Court.² In a South African case, however, the court reached a contrary result, holding that traders who carried on their business in contravention of the statute should be enjoined at the instance of rival traders who claimed that their business was being hurt by the illegal competition.³

There are many cases in which the territory of enfranchised public utility companies, or others following a public calling, have been encroached upon by unlicensed competitors. In these cases there is an almost even split of opinion. Some courts hold that an injunction will not be issued against a violation of a statute at the instance of a private concern or individual, even when a franchise is being encroached upon, unless there is some showing of other and special injury to the property rights of the individual.⁴ A few courts, however, have held in these cases that interference with franchise rights is sufficient ground for an injunction notwithstanding the act complained of is also a violation of the criminal law.⁵

Where the act complained of is a violation of the law which cannot be effectively handled by criminal prosecution, though there may be neither allegation nor proof of a public nuisance, injunctions are granted upon suit by public officials with increasing frequency.⁶ Such

² *Merz v. Murchison*, 30 Ohio Cir. Ct. Rep. 646.

³ *Patz v. Green & Co.*, T. S. 427 (S. Af. 1907).

⁴ *Long Island Ry. v. Glen Cove and N. Y. Coach Corp.*, 130 Misc. 303, 223 N. Y. Supp. 398 (1927) (private company not entitled to bring a suit for an injunction because a rival has not complied with all the requirements of the law; its right, if any, must rest upon ground of special injury; case rests upon different ground than if the suit had been brought by public authorities); *Healy v. Sidone*, 127 Atl. 520 (N. J. Ch. 1926) (licensing statute alone does not give a private individual or company any standing in a court of equity); *Passaic-Athenia Bus Co. v. Consolidated Bus Lines*, 100 N. J. Eq. 185, 135 Atl. 284 (1926).

⁵ *New York, New Haven and Hartford Ry. Co. v. Diester*, 253 Mass. 178, 148 N. E. 590 (1925) (the fact that defendant ran an unlicensed bus line along a route that paralleled plaintiff's railroad for a considerable distance held to constitute such an injury to plaintiff as to give it a standing in a court of equity; plaintiff's franchise not wholly exclusive, but is exclusive against one operating illegally); *People's Transit Co. v. Louisville Ry. Co.*, 220 Ky. 728, 295 S. W. 1055 (1927) (Street Railway Company suing as a taxpayer may sue to enjoin a bus company from operating without a franchise); Note (1925) 24 MICH. L. REV. 393.

⁶ *U. S. v. Milwaukee Refrigerator Transit Co.*, 145 Fed. 1007 (C. C. E. D. Wis. 1906) (the acts complained of were in violation of the Elkins Act; held such a course of conduct as is here complained of will be enjoined: "If a complainant's rights, whether the higher and more sacred rights of person, or the lower and more sordid rights of property cannot be adequately protected elsewhere; and if a decree and writ that will be enforceable can be formed, no court of equity should acknowledge itself wanting in the primary power of devising decrees and writs to meet the needs of the situation."); *State v. Canty*, 207 Mo. 439, 105 S. W. 1078 (1907) (bull fights held in violation of the

injunctions are sometimes granted at the suit of private individuals, especially in zoning ordinance cases,⁷ but the better opinion is that this should not be done, unless the plaintiff can show that he is suffering and will continue to suffer some peculiar property damage⁸ or that public officials have refused to act.⁹ A merely speculative or

law enjoined); *State v. McMahon*, 128 Kan. 772, 280 Pac. 906 (1929) (injunction against defendant's continuing longer in the business of lending money at highly usurious rates under contracts that were so cleverly drawn that prosecution under the usury laws of the state would be ineffective); Note (1930) 43 HARV. L. REV. 499.

⁷ *Goldfield Consolidated Mines Co. v. Richardson*, 194 Fed. 198 (C. C. D. Nev. 1911) (injunction issued against operators of a pretended assay office which was in fact nothing more than a "fence" for stolen ores); *Crolius v. Douglas Boat Club*, 247 N. Y. Supp. 1 (1931) (suit by private citizen against the operation of a dance hall and bathing beach; held the fact that these establishments were being run by defendants without the requisite licenses alone warranted the issuance of the injunction); *O'Bryan v. Highland Apartment Co.*, 128 Ky. 282, 108 S. W. 257 (1908); *Rohrbach v. Cavallini*, 210 Ill. App. 182 (1918); *Rice v. Vanvrancken*, 132 Misc. 82, 229 N. Y. Supp. 32 (1928) (property owners of the vicinity are the proper complainants in a suit to enjoin the violation of zoning ordinances).

⁸ *Southern Express Company v. Long*, 202 Fed. 462 (C. C. A. 5th, 1913) (this suit was started in a lower federal court which granted Long, a licensed liquor dealer in Jacksonville, Fla., an injunction by which the express company was restrained from accepting liquor shipments from bootleggers within the state of Georgia which competed with Long's legal shipments into the state from Florida; injunction dissolved; "Private parties have no standing in court to enjoin or abate a public nuisance, unless their private property rights are certainly affected by it."); *Daniels v. Portland Gold Mining Co.*, 202 Fed. 637 (C. C. A. 8th, 1912) injunction granted upon the complaint of gold mine operators in the Cripple Creek district against the continued operation of an assay office specializing in stolen ores held to be an inexcusable exercise of the judicial function); *Christie St. Commission Company v. Chicago Board of Trade*, 92 Ill. App. 604 (1900) (Board of Trade denied an injunction against the further use of its quotations in defendant's bucketshop operations); *Hodson v. Walker*, 170 Mo. App. 632, 157 S. W. 104 (1913) (suit for injunction against continued operation of a house of prostitution, held when complainant's only purpose is to restrain unholy and vicious practices he may not call upon a court of equity; complainant has failed to show a special property injury here; injunction denied.); *Campbell v. Jackman Bros.*, 140 Iowa 475, 118 N. W. 755 (1908) (a private citizen may not enjoin the threatened commission of a crime or other public wrong in the absence of injury to the property rights of the individual complaining); cf. *Glover v. Malloska*, 238 Mich. 216, 213 N. W. 107 (1927) (persons engaged in the oil business have such rights therein as to authorize a court of equity to enjoin a competitor from conducting a lottery for the purpose of increasing his sales at a competitor's expense); *Chicago, Burlington & Quincy Ry. v. Davis*, 111 Nebr. 737, 197 N. W. 599 (1924) (lawyer enjoined from solicitation of personal injury cases to be tried outside of the state).

⁹ *Kennedy v. McCarty*, 137 Misc. 524, 244 N. Y. Supp. 63 (1930) (private citizens may not enforce a zoning ordinance by injunction without showing that a demand has been made upon municipal authorities to enforce the law); *Whiteridge v. Calestock*, 100 Misc. 367, 165 N. Y. Supp. 640 (1917) (in a suit by property owners to enjoin the continued operation of a restaurant in a residential district the plaintiff should allege and show that the public authorities have refused to enforce the ordinance).

conjectural claim of injury to health, such as might be incurred from riding on cars where smoking is tolerated though in violation of a statute,¹⁰ or disturbance of the Sabbath quiet by baseball games has been held insufficient.¹¹

In the field of licensed professions or businesses there is respectable authority for holding that those who attempt to follow them without the requisite license may be enjoined at the instance of proper public officials, sometimes the examining or licensing board concerned;¹² more often by the public prosecutor,¹³ but here, again, we find the courts divided as to what grounds will support an injunction.

The better opinion in British and American courts is that licensing statutes are enacted, not for the purpose of creating monopolies or special property rights in the holders of licenses such as would give them standing in a court of equity, but for the purposes of control and regulation in the interest of the whole public.¹⁴

ALLAN LANGSTON.

¹⁰ *Mellen v. Brooklyn Heights Ry. Co.*, 87 Misc. 65, 150 N. Y. Supp. 222 (1914).

¹¹ *McMillan v. Kuehnle*, 78 N. J. Eq. 251, 78 Atl. 185 (1910).

¹² *Kentucky State Board of Dental Examiners v. Payne*, 213 Ky. 382, 281 S. W. 188 (1926) (complainants, being charged with the enforcement of the statute requiring licenses for the practice of dentistry, may prevent further violations of the said statute by injunction); *North American Insurance Co. v. Yates*, 214 Ill. 272, 73 N. E. 423 (1905) (State Commissioner of Insurance may bring suit for injunction against an unlicensed insurance company carrying on its business within the state in violation of the statute).

¹³ *State v. Jewett Market Co.*, 228 N. W. 288 (Ia. 1929) (state's attorney is the proper complainant in suit to enjoin sale of drugs by one not having license to engage in that business); *City of Rochester v. Gutberlett*, 73 Misc. 607, 133 N. Y. Supp. 541 (1911) (suit by the City of Rochester to enjoin defendant from collecting garbage without license required by the city ordinance); *contra*: *City of Mount Vernon v. Seeley*, 74 App. Div. 50, 77 N. Y. Supp. 250 (1902) (injunction will not lie to restrain the posting of bills in a city which does not constitute a nuisance, in violation of an ordinance making it a criminal offense to post bills without first obtaining from the mayor a permit to do so); *State v. Maltby*, 108 Nebr. 578, 188 N. W. 175 (1922) (suit to enjoin an unlicensed chiropractor from practice until she had obtained a license; held though defendant's practice may be dangerous to the public the state's remedy lies in stringent criminal prosecution, and, if such prosecution is not sufficient to deter her, that is the concern of the legislature and not of the court of equity).

¹⁴ *Goldsmith v. Jewish Press Publishing Co.*, 118 Misc. 789, 195 N. Y. Supp. 37 (1922) (suit by a certified public accountant to enjoin defendant from publishing the advertisements of unlicensed accountants; held the legislature, in enacting the law under which the complainant seeks to maintain this action was not creating new property rights or a monopoly, but trying to protect the public. Though the value of complainant's certificate may be diminished by the fact that unauthorized persons are holding themselves out as possessing the same qualifications, he has shown no right or injury which would warrant the interference of a court of equity); *Healy v. Sidone*, *supra* note 4 (the statutes requiring licenses were not enacted for the benefit of transportation companies, therefore these statutes can give the plaintiff no standing in a court of equity; injunction refused).