

or claim the benefit of his own fraud or that of his privies.¹⁵ Furthermore, a party will not be relieved from the consequences of his own fraud or wrong¹⁶ or be given the aid of equity to right his own wrong.¹⁷ Aid will be refused to either of the parties to a fraudulent transaction,¹⁸ and a litigant who complains of inequitable conduct on the part of another will not be accorded relief if he has perpetrated the same wrong.¹⁹

On the other hand, the maxim in question is said not to affect all "sinners"²⁰ or to embrace general iniquitous conduct,¹ and not to comprehend all "moral infirmities," the reason being that courts of equity are not primarily engaged in the moral reformation of the individual citizen.² Moreover, the maxim refers to wilful misconduct and not merely negligent misconduct.³ Delinquencies which have had no injurious consequences are held not to defeat a suit.⁴ Authorities may also be found to the effect that the conduct of the

480, reh den 309 US 697, 84 L ed 1036, 60 S Ct 611.

15. *Ford v Buffalo Eagle Colliery Co.* (CA4 W Va) 122 F2d 555.
48 W Va LQ 172.

Complainants who seek the benefit of a contract which has been obtained by their fraud or the fraud of one of them can have no standing in a court of equity. *Kitchen v Rayburn* (US) 19 Wall 254, 22 L ed 64.

16. *Wheeler v Sage* (US) 1 Wall 518, 17 L ed 646; *Galloway v Finley* (US) 12 Pet 264, 9 L ed 1079; *Cross v Farmers Elevator Co.* 31 ND 116, 153 NW 279, 4 ALR 13.

A court of equity will not come to the aid of one who, in the practice of one fraud, has become the victim of another, but will regard one who has been thus cheated as having cheated himself. *Metzger v Metzger*, 338 Pa 564, 14 A2d 285, 129 ALR 683.

Persons who, for speculative purposes, have attempted to keep afloat worthless stock of a corporation will be left to pursue a remedy at law. *Randolph v Quidnick Co.* (*Jencks v Quidnick Co.*) 135 US 457, 34 L ed 200, 10 S Ct 655.

17. *Boretz v Segar*, 124 Conn 320, 199 A 548.

18. *Bein v Heath* (US) 6 How 228, 12 L ed 416; *Bishop v Bishop* (CA3 Virgin Islands) 257 F2d 495, cert den 359 US 914, 3 L ed 2d 576, 79 S Ct 578; *Batesville Truck Line, Inc. v Martin*, 219 Ark 603, 243 SW2d 729; *Burton v McMillan*, 52 Fla 228, 42 So 879; *Schaeffer v Sterling*, 176 Md 553, 6 A2d 254; *Rust v Gillespie*, 90 Okla 59, 216 P 480.

Annotation: 4 ALR 79.

A claim arising out of a fraudulent transaction may not be made the basis of suit. *Kitchen v Rayburn* (US) 19 Wall 254, 22 L ed 64; *Picture Plays Theatre Co. v Williams*, 75 Fla 556, 78 So 674, 1 ALR 1.

19. *International News Service v Associated*

Press, 248 US 215, 63 L ed 211, 39 S Ct 68, 2 ALR 293.

Annotation: 4 ALR 92 et seq.

Equity will refuse its aid to a suitor who has himself been guilty of the same inequitable conduct which he denounces in others. *Manhattan Medicine Co. v Wood*, 108 US 218, 27 L ed 706, 2 S Ct 436; *Edward Thompson Co. v American Law Book Co.* (CA2 NY) 122 F 922.

20. *Harris v Harris*, 208 Ala 20, 93 So 841; *McClure v Wilson*, 238 Mo App 824, 185 SW2d 878.

1. § 142, *infra*.

2. *Parris v John W. Manning & Sons*, 284 Ky 225, 144 SW2d 490; *Duncombe v Amfot Oil Co.* 201 Ky 290, 256 SW 427; *Price v Ridler* (Mo) 373 SW2d 59 (saying that the maxim does not apply to every unconscientious act or to all inequitable conduct); *Wantulok v Wantulok*, 67 Wyo 22, 214 P2d 477, 223 P2d 1030, 21 ALR2d 572 (saying that the doctrine of clean hands is not rigid, but has its limitations; that it does not apply to every unconscientious act of a party or operate to repel all sinners from a court of equity, and will not be allowed to work injustice or wrong or aid one to acquire property to which he has no right).

The fact that a woman was too ready to marry from mercenary motives will not debar her or the child of the marriage from relief based on fraudulent representations made to her to induce her to contract such marriage. *Piper v Hoard*, 107 NY 73, 13 NE 626.

3. *Eresch v Braecklein* (CA10 Kan) 133 F2d 12.

4. *Parris' Admr. v John W. Manning & Sons*, 284 Ky 225, 144 SW2d 490; *Love v Robinson*, 161 Miss 585, 137 So 499, 78 ALR 608.

As to a situation where wrongful conduct

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complainant must, if relief is to be denied him, have been wrong in a legal sense as well as in a moral view.⁵

§ 139. — Secret knowledge, and ability of plaintiff to prevent harm.

The maxim, "he who comes into equity must come with clean hands," may be invoked where it appears that the defendant is in an injurious or prejudicial situation which he could not have avoided, because of lack of knowledge, and that the complainant, knowing of the defendant's ignorance, could have prevented the situation from arising.⁶ Relief will be denied where the complainant seeks to take advantage of a forfeiture which has resulted from mistake or misunderstanding on the part of the defendant, the evidence showing that the complainant, having knowledge of the defendant's misconception or misunderstanding, failed to inform him thereof.⁷ However, in some situations, the wrong of the complainant must have been founded upon actual knowledge, tortious conduct which is based upon imputed knowledge or notice not being such as to preclude relief.⁸

§ 140. — Where motives in bringing suit, or its purposes or objects, are improper.

It is generally held that relief may be barred if the fact is established⁹ that the complainant, in instituting the suit, has been influenced by bad or improper motives.¹⁰ Where the purpose or object of the suit is to accomplish something which will produce an inequitable or unconscionable result, equity will not grant affirmative relief.¹¹ The court may deny relief and dismiss the

does not injure or prejudice the defendant, see § 144, *infra*.

5. *Dering v Earl of Winchelsea*, 1 Cox Ch Cas 318, 29 Eng Reprint 1184, 2 Bos & P 270, 126 Eng Reprint 1276.

Annotation: 4 ALR 49.

6. *Taylor v Brown (US)* 5 Cranch 234, 3 L ed 88.

See *Cook v Marks*, 302 Mich 55, 4 NW2d 465, 140 ALR 1429, holding that a husband does not come into equity with clean hands in a suit seeking a decree determining his ownership, and delivery to him, of nontransferable United States savings bonds issued in the name of himself and wife, which he had entrusted to the latter, as against a person who made a loan to her upon security of an invalid attempt to pledge the bonds; and, he having refused to do equity, relief will not be granted to him.

7. *Duncombe v Amfot Oil Co.* 201 Ky 290, 256 SW 427.

8. The fraud of an agent will not render the hands of the principal unclean within the meaning of the equitable maxim, however much it may affect his legal rights. *Vulcan Detinning Co. v American Can Co.* 72 NJ Eq 387, 67 A 339. *Annotation*: 4 ALR 61.

9. *Curtin v Benson*, 222 US 78, 56 L ed 102, 32 S Ct 31.

Where it does not appear that a suit was prosecuted in furtherance of the improper motive charged, the relief prayed for by the party accused of the inequitable conduct should not be denied on the ground that because thereof he is in court with unclean hands. *Upchurch v Anderson (Tenn)* 52 SW 917.

10. *Peltzer v Gilbert*, 260 Mo 500, 169 SW 257; *Cook v Chapman*, 30 NJ Eq 114.

Annotation: 4 ALR 61.

Self-interest does not necessarily make a party's hands unclean. For example, a court of equity is not justified in denying redress to a taxpayer suing to prevent the paying out of money for the construction of a bridge, the contract for which was made in defiance of a municipal charter, by the fact that he was the owner of a toll bridge, the value of which will probably be diminished by the new bridge to be constructed. Such a complainant has the same right to prevent the misuse of public money upon an illegal contract for a second bridge as if his private interests were less. *Chippewa Bridge Co. v Durand*, 122 Wis 85, 99 NW 603.

11. *Monaghan v May*, 242 App Div 64, 273 NYS 475, mod on reh on other grounds 242 App Div 733, 274 NYS 243.