servitude imposed on the right of way will not render it any less feasible than before to operate a ferry across the river, as it is not alleged, or even suggested, that any proposed changes made along the right of way to adapt it to general travel will obstruct access to the ferry landing, either on the land or water side, or impair any other riparian right. In short, the appellees, in their bill, have not alleged any loss or inconvenience as liable to ensue from the new use, except that the opening of the bridge for the accommodation of general travel will lessen the patronage of the ferry; and this is evidently a species of damage against which neither a court of law or equity can afford the appellees any protection. It is a damage not due to the fact that by destroying some riparian right of the appellees, or by obstructing the approaches to the ferry landing, the railway company has rendered it less feasible to operate a ferry; but it is a damage that is wholly due to the fact that a new means of crossing the river has been authorized by congress, which enters into competition with the ferry, and renders the business less profitable. It is hardly necessary to add that congress was not bound to provide compensation for a consequential injury of that character, when it authorized the construction of a bridge, as the ferry franchise was not infringed or taken, within the meaning of the constitution, by building the bridge. And the same proposition would hold good if the appellees had had a special franchise to operate a ferry for a term of years, instead of a ferry license from the Cherokee Nation, renewable annually, which is all that the present record discloses. *Parrott* v. *City of Lawrence*, 2 Dill. 332; *Bush* v. *Bridge Co.*, 3 Ind. 21; *Hartford Bridge Co.* v. *Union Ferry Co.*, 29 Conn. 210; *Charles River Bridge* v. *Warren Bridge*, 11 Pet. 420.

In view of the considerations to which we have adverted, we are satisfied that the complainants below were not, as a matter of right, entitled to injunctive relief, and that the existing injunction should not have been granted, even though we concede, for the purposes of the present decision, that the additional use to which the railway company proposed to devote its right of way was of such character as entitles the complainants to some additional compensation. It was undoubtedly a matter of much public concern to the citizens of Ft. Smith and the Indian Territory that vehicles and foot-passengers should be allowed to use the bridge as soon as possible, and that necessitated the use to a limited extent of appellant's right of way. When congress authorized the latter use (as we think it did) it was not incumbent on it to require compensation for the additional servitude to be paid in advance of its actual enjoyment by the public, even if some additional compensation is recoverable. *Cherokee Nation* v. *Railway Co.*, 135 U. S. 641–659, 10 Sup. Ct. Rep. 965. Furthermore, the appellees have a right of action at law to recover such additional compensation as they may be entitled to. *Railway Co.* v. *Twine*, 23 Kan. 591; *Railroad Co.* v. *Baker*, 45 Ark. 252; Lewis, Em. Dom. § 623, and citations. But the most important consideration bearing on the right to an injunction is the fact that, in the exercise of the authority granted to it by congress, the railway company does not propose to intrude upon the possession of any lands now occu-

pied by the appellees, or to do an act that will occasion injury to any considerable extent. The damages, if any, to which the appellees can lawfully lay claim, are certainly very small, if not purely nominal. We recognize the rule that legal rights of every description are entitled to protection, no matter how small their money value may be, but a court of equity is not bound to afford protection by an unconditional order of injunction, when adequate relief may be afforded in some other manner, whether the right involved is of great or little value. *Bassett* v. *Manufacturing Co.*, 47 N. H. 437; *McElroy* v. *Kansas City*, 21 Fed. Rep. 257; *Erie R. Co.* v. *Delaware, L. & W. R. Co.*, 21 N. J. Eq. 291, 292. We are of the opinion that the circuit court would have gone quite far enough in the case at bar, had it required the appellant to give a bond in a reasonable sum, not exceeding $2,500, conditioned to pay such damages, if any, as the complainants below might thereafter be adjudged to be entitled to, by any court of competent jurisdiction, in consequence of the alleged additional servitude imposed or threatened to be imposed on its right of way. Entertaining these views, the order of injunction appealed from is hereby vacated and annulled, the existing injunction is dissolved, and the cause is remanded to the lower court, with directions to take a bond for the protection of the appellees not exceeding the amount, and with conditions as above indicated.

KANSAS & A. V. RY. CO. v. LE FLORE.

(*Circuit Court of Appeals, Eighth Circuit.* January 25, 1892.)

Appeal from the Circuit Court of the United States for the Western District of Arkansas.

H. S. Priest and *Alex. G. Cochran*, for appellant.

John H. Rogers, for appellee.

Before CALDWELL, Circuit Judge, and SHIRAS and THAYER, District Judges.

THAYER, District Judge. This is an appeal from an order granting and continuing a preliminary injunction. The same questions arise that have been fully considered and determined at the present session in the case of the same appellant against Gabriel L. Payne and Houston J. Payne. 49 Fed. Rep. 114. For the reasons stated in the opinion on file in the last-mentioned cause the order of injunction appealed from is vacated and annulled, the existing injunction is dissolved, and the cause is remanded to the lower court, with directions to take a bond with sufficient sureties from the appellant, in a sum not to exceed $2,500, conditioned that the appellant will pay such damages, if any, as the appellee may hereafter be adjudged to be entitled to by any court of competent jurisdiction, in consequence of the alleged additional servitude imposed, or threatened to be imposed, on the appellant's right of way.