

obligations of the contract, whatever the result of this may be. Whatever relief or redress, therefore, any particular common carrier concerned in one of these tickets may be entitled to at law or in equity is available to such carrier on tickets issued by other carriers as well as those issued by such particular carrier; and the damage sustained by such carrier is not confined to the tickets which it issues, but also extends to tickets to which it is a party in the sense above explained, and the damages which are resulting and may probably result to the carrier are to be estimated in this aspect of his right to protection in respect of both classes of tickets. It is not necessary, after having stated the facts at length, to say that it is perfectly apparent that practically these complainants are without any adequate redress at law for violation of these ticket contracts, and that for damages which they may sustain, if there is no remedy in equity, there is none whatever, in any just sense. Indeed, I do not understand the eminent counsel for the defendants to contend that the multitude of suits at law, in any form in which they might be technically maintained, would bring any substantial result to the complainants. On the contrary, it is perfectly apparent that it would only involve the companies in further loss, in the outlay necessary to meet large bills of cost against insolvent persons, to say nothing of other difficulties which are obvious enough. It may be reasonably supposed that one of these brokers will purchase and sell at the lowest limit 500 tickets during the Exposition, with the average loss to the carrier on each ticket of \$5. If 500 separate suits at law for breach of the contract in each ticket is the only mode of redress to the carrier, it requires no comment to show that here is a striking failure of justice. The injury is obviously irreparable. It may make this point more clear if a right understanding is had of what constitutes an irreparable injury. In *Wahle v. Reinbach*, 76 Ill. 322, the supreme court of Illinois approved a definition of these terms in the following language:

"By 'irreparable injury' is not meant such injury as is beyond the possibility of repair, or beyond possible compensation in damages, nor necessarily great injury or great damage, but that species of injury, whether great or small, that ought not to be submitted to on the one hand or inflicted on the other; and, because it is so large on the one hand, or so small on the other, is of such constant and frequent recurrence that no fair or reasonable redress can be had therefor in a court of law."

In *Parker v. Woolen Co.*, 2 Black, 551, Mr. Justice Swayne, discussing the subject of interference by a court of equity on the accepted ground of a multiplicity of suits, said:

"It will also give its aid to prevent oppressive and interminable litigation, or a multiplicity of suits, or where the injury is of such a nature that it cannot be adequately compensated by damages at law, or is such as, from its continuance or permanent mischief, must occasion a constantly recurring grievance, which cannot be prevented otherwise than by an injunction. Mitf. Eq. Pl., by Jeremy, 114, 145; Jeremy, Eq. Jur. 300; 1 Dick, 163; 16 Ves. 342; *Corporation of the City of New York v. Schermerhorn*, 6 Johns. Ch. 46; *Railroad Co. v. Archer*, 6 Paige, 83."

So, in *Warren Mills v. New Orleans Seed Co.*, 65 Miss. 391, 4 South. 298, the facts were that complainant was in the business of buying, collecting, and crushing cotton seed, and was the owner of several

thousand sacks, all of which were legibly branded, and were necessary to be used in his business. The course of business was to distribute these sacks along the railroad and public landings, where producers, finding them, would fill them and ship them to complainant. The defendants were engaged in the same business, and were in the habit of taking complainant's sacks, and using them for their own business and for their own purposes, and sometimes concealed the use of complainant's sacks by covering them with sacks of their own. Complainant had brought numerous actions of replevin to recover possession of his sacks, in which actions the defendants had given bond. Bill was brought upon the ground that the remedies available to complainant at law were inadequate. The bill was brought for an accounting, and for an injunction against any further use of complainant's sacks by the defendants. The bill was held good on demurrer, and the judgment of the court below affirmed on appeal. The supreme court of Mississippi said:

"The separate remedy at law for each of such trespasses would not be adequate to relieve the injured party from the expense, vexation, and oppression of numerous suits against the same wrongdoer in regard to the same subject-matter. The ends of justice require, in such case, that the whole wrong shall be arrested and concluded by a single proceeding. And such relief equity affords, and thereby fulfills its appropriate mission of supplying the deficiencies of legal remedies. Affirmed and remanded, with leave to appellants to answer within thirty days after the mandate of this court herein is filed in the court below."

It seems clear to me that the cases at bar come within the definitions thus given.

In *Lembeck v. Nye*, 47 Ohio St. 354, 24 N. E. 690, the supreme court of Ohio, in answering the objection that there was an adequate remedy at law, said:

"The agreed statement of facts shows that the defendant Nye is insolvent, and that the financial condition of Andrews is doubtful; but, aside from this, and were they both solvent and fully able to respond to any damages that might be recovered against them in actions of trespass, yet it is apparent from the whole record that such actions would not afford an adequate remedy, for the violations of the rights of the plaintiff in error in the past and those threatened in the future were and are, during certain seasons of the year, of daily, if not of hourly, occurrence, under the claim of a right to do so; besides, the injury resulting from each separate act would be trifling, and the damages recoverable therefor scarcely equal to a tithe of the expense necessary to prosecute separate actions therefor."

What is thus said is fully applicable to the case in hand; and, to the same effect, see *Boyce v. Grundy*, 3 Pet. 210; *Wylie v. Coxe*, 15 How. 415. Indeed, as has been, in substance, said in other cases, the very fact that a right has been violated, and that this violation is constantly going on, and that a court of law cannot, in damages, compensate the injury or stop the wrong, furnishes the best possible reason for interference by court of equity; and the fact that an actual injury resulting from the violation of a right is small, and the interest to be affected by an injunction large, is not to weigh against the interposition of preventive power in equity, when it is clear that on one hand a right is violated, and on the other a wrong committed. *Sanford v. Poe*, 37 U. S. App. 378, 16 C. C. A. 305, and 69 Fed. 546, furnishes an illustration of the true doctrine, and an example of its practical application. Under the

scheme of taxation provided by an act of the Ohio legislature known as the "Nichols Law," the board of tax appraisers, after determining the amount of taxes, certified taxes upon the express companies to the auditors of the counties in the state,—87 in number. The express companies objected to this statute as invalid, and the question was whether that controversy might be presented and determined in one suit by injunction against the board of tax appraisers, or whether the express companies must wait until the amounts were certified to the auditors, which would give rise to a separate controversy with each county. It was held that, for the purpose of avoiding a multiplicity of suits, an injunction bill would lie against the board, if the assessments made were, for any reason, illegal. Giving the opinion of the court, Judge Lurton said:

"If the assessments complained of be illegal for any reason, the jurisdiction of a court of equity to enjoin the defendants from certifying them to the several county auditors of the state seems to be clear, upon the ground that a multiplicity of suits would result unless the assessment should be enjoined before the assessors should certify to each county auditor the proportion of the gross assessments collectible by each county auditor under the scheme of apportionment among the counties provided by the act of April 27, 1893. To require the complainants to pay each of the numerous county auditors, and then to sue to recover, or to enjoin each, would be most oppressive. We think, therefore, that the jurisdiction asserted in the bill, of avoiding a multiplicity of suits, was a sufficient ground to support the original bill, as well as the bills subsequently filed to enjoin the tax of 1894, assessed after the jurisdiction in the original case had attached. *Cummings v. Bank*, 101 U. S. 153, 157; *State Railway Tax Cases*, 92 U. S. 575; *Express Co. v. Seibert*, 142 U. S. 339, 348, 12 Sup. Ct. 250; *Shelton v. Platt*, 139 U. S. 591, 599, 11 Sup. Ct. 646; *Marshall v. Holmes*, 141 U. S. 589, 12 Sup. Ct. 52; *Express Co. v. Poe*, 61 Fed. 470."

It is not controverted, as I understand the line of argument, and could not be, I think, that the original purchaser, the ticket broker, and the subsequent purchaser who uses one of these tickets, are severally and jointly liable in an action at law to any or all of these companies in respect to a fraudulent ticket so used over the line of railway of such company or companies. If there had previously existed any doubt upon this subject, it has been put at rest by recent cases of the class to which belong the now leading case of *Angle v. Railway Co.*, 151 U. S. 1, 14 Sup. Ct. 240. It is said that the ground on which the liability of a third party for interfering with a contract between others was placed in that case was that the interference was malicious. It is clear, however, that the only motive for interference by the third party in that case, as well as in other cases cited, was the desire to make a profit to the injury of one of the parties to the contract. There was no malice in the case, beyond this desire to make an unlawful gain to the detriment of one of the parties to the contract; and the case, in principle, clearly controls the question of legal liability. The reasoning in the case is in other respects applicable here. It is, however, unnecessary to further pursue this point of the liability of each one of the parties to the violation of this contract in an action at law by any one of the companies injured. I think there is no doubt of such liability. The remedy at law, however, being obviously wholly inadequate, it only remains to determine whether the case is one in which a court of equity can furnish relief

against the manifest wrong; and the case, as thus presented on the equity side of this court, invoking equitable jurisdiction and equitable relief, presents a question much broader in its limits and in the measure of relief than any mere technical question of the liability in an action at law for the violation of these special-ticket contracts. It is true that the larger question and the full relief in equity depend, in a sense, upon the narrower definition of the right, and the limited form of redress at law. But this is no more than what happens in any case where the broader right and full relief in one suit in equity are being contrasted with the right and result of a multiplicity of separate suits at law. In the action at law, form is regarded, while in equity substance controls. The question, as fairly presented in these bills, is that of the protection of the business of the complainants being carried on during this Exposition in aid thereof, and in the form of these Exposition tickets. The wrong of which the complainants are complaining is not limited to the proposition that any particular one or more of these tickets has been violated, giving rise thereby to legal liability. The position here is that the business of the complainants is being seriously damaged, and will continue to be during the period of this Exposition. This loss, it is alleged, is being suffered by these complainants by repeated and continued purchases and use by these defendants of these tickets, and the question involves the entire loss which the complainants may sustain by the fraudulent use of such tickets from the beginning to the end of the Exposition. It is the protection of the whole of this form of business from the entire loss already sustained, and likely to be sustained between now and the end of the Exposition period. I repeat that it is not a question of enforcing a contract, or of recovery of damages for a breach, but it is protection of the business of the complainants from loss suffered and to be suffered by the frauds committed and likely to be committed against these companies by means of, and through the instrumentality of, these void tickets, and it is in these broader limits that the question is here considered.

A preliminary question is made on the jurisdiction of this court in respect of the amount or matter in controversy. Although this question is not first presented in argument, it must first be determined in ruling on the cases; for, if this court is without jurisdiction, it is not within its province to determine the other questions raised. The contention is that these bills are substantially suits upon the ticket contracts, to recover damages for a violation thereof, or for specific execution thereof, and that the right of action is separate upon each ticket, and that such rights or claims cannot be joined for the purpose of making up the jurisdictional amount, as against each one of the defendants, and, further, that the claims against the separate defendants cannot be joined together in this suit so as to make an amount that gives jurisdiction. It is agreed, in order to save a larger accumulation of costs, that, if the court entertains the opinion that there is jurisdiction against each defendant in a separate suit, no objection will be urged against entertaining suits against the defendants jointly. From what has been said, it will readily be seen that in my opinion these are in no just sense suits upon the contract, nor for

specific performance, but are suits to protect the business of the complainants against the irreparable mischief being suffered by reason of the fraudulent use and abuse of these ticket contracts; and the amount or value of the matter in controversy is not the damage that might be specifically recovered in a suit upon any one or more of these contracts, but is the protection furnished to the plaintiffs, and the loss prevented by the fraudulent use of any and all of these void papers. It is the value of the whole object of the suit to the complainant which determines the amount in controversy. In *Railroad Co. v. Ward*, 2 Black, 485, bill was brought to abate a public nuisance; and it was held that the true test of jurisdiction as to the amount was the value of the object to be gained by the bill, which object was the removal of the nuisance complained of. So, also, in *Railway Co. v. Kuteman*, 4 C. C. A. 508, 54 Fed. 552, the suit was by a railroad company for an injunction to restrain a shipper from prosecuting in the state courts a multiplicity of suits for overcharge in freight, the question being over the right of the company to maintain a schedule rate under which the charges were made; and the court held that the true test of the jurisdictional amount was the value of the right to maintain the rate, and not the particular sums involved in the separate suits. The exact language of the court is:

"In a suit for an injunction the amount in dispute is the value of the object to be gained by the bill. *Fost. Fed. Prac.* § 16. An injunction may be of much greater value to the complainant than the amount in controversy in cases of dispute which have already arisen. *Symonds v. Greene*, 28 Fed. 834; *Whitman v. Hubbell*, 30 Fed. 81. The maintenance of its rates is the real subject of dispute, and the object of the bill and the value of this object must be considered. *Railroad Co. v. Ward*, 2 Black, 485. This value not being liquidated or fixed by law, the alleged value, especially on demurrer to the bill, must govern."

In *Smith v. Bivens*, 56 Fed. 352, the bill for injunction was by the owner of a large body of land, valuable only for its pasturage rights and privileges, to protect that right from use by cattle and stock owners, neighbors of the land of complainant, under authority of an act of the legislature of South Carolina changing the previous law, which required owners of cattle and stock to keep them fenced in so as to exempt plaintiff's land, with other lands, from the operation of the act. The court held that the true test of the jurisdiction was the value of the entire pasturage right of the complainant which was to be protected, and not the amount as between the complainant and any one of the cattle owners proposing to use this right without compensation. Judge Simonton observed:

"The case comes within *Railroad Co. v. Ward*, 2 Black, 492; or as it is stated in *Railway Co. v. Kuteman*, 4 C. C. A. 503, 54 Fed. 552, in a suit for an injunction the amount in dispute is the value of the object to be gained by the bill."

After disposing of other questions, the learned judge, in answer to the objection to equity jurisdiction, said:

"With regard to the general equity jurisdiction there can be less question. By the operation of the act the complainant is exposed constantly to trespasses upon his land, and to the use and destruction of his property. Were he limited to relief at law, he would be involved constantly in a multiplicity of suits, and harassed by endless and unsatisfactory litigation. As long as the act remains of force this cannot be prevented. The owners of cattle are not required to fence

them in, and in despite of the efforts of complainant, and, we may say, even against the wishes of the cattle owners, these trespasses will go on."

In *Scott v. Donald*, 165 U. S. 107, 17 Sup. Ct. 262, the bill was filed in equity by the plaintiff against various persons claiming to act as constables of the state of South Carolina, under what was known as the "Dispensary Law." An injunction was sought to protect the alleged right of the plaintiff to import, for his use, ales, wines, and liquors, the products of other states and foreign countries. It was alleged in the bill that on several occasions packages of such wines and liquors belonging to complainant had been seized and carried away, and that complainant had instituted suits at law, and that notwithstanding such suits the constables of South Carolina continued to seize and carry away packages belonging to the complainant, and that protection of the complainant's right by actions at law involved, and would involve, a multiplicity of suits against the constables, and that the right to import wines, liquors, and other spirits was of the money value of upwards of \$2,000, and also that articles to be imported in the future by the complainant from time to time were threatened to be seized by the constables, and that the value of these would exceed the sum of \$2,000. A preliminary injunction was allowed. A number of defenses were set up, and among them the plea that the bill presented no cause upon which the jurisdiction of the court of equity could be founded, because there was a plain and adequate remedy at law for the injuries complained of. On final hearing the preliminary injunction was made perpetual. The case then went on appeal before the supreme court of the United States. The case made by the bill was stated by Mr. Justice Shiras, speaking for the court, as follows:

"The bill prays for an injunction on the several grounds of irreparable damage; that the acts complained of prevent the exercise by the complainant of his right to import, without molestation, lawful commodities, the products of other states; to avoid multiplicity of suits; and the want of adequate remedies at law."

There was a stipulation in the case in which it was agreed that the right of importation of ales, wines, and liquors was of the value of \$2,000 and upwards, and that the difference in the price to the consumer, like the complainant, of such liquors bought out of the state dispensary of South Carolina, and bought outside of the state, was about 50 to 75 per cent. in favor of imported liquors. The court, in regard to this, said:

"Such statements sufficiently concede that the pecuniary value of plaintiff's rights in controversy exceeds the value of two thousand dollars. Nor can it be reasonably claimed that the plaintiff must postpone his application to the circuit court, as a court of equity, until his property to an amount exceeding in value two thousand dollars has been actually seized and confiscated, and when the preventive remedy by injunction would be of no avail."

This case is applicable as to jurisdiction and the new use of the writ of injunction. The loss likely to result in the future enters into the value of the object of the suit for preventive relief. Close analogy is furnished in trade-mark and patent cases. In the case of a trade-mark, it is not the label which is protected by injunction, and which is of substantial value, but it is the business carried

on under the label which is the true test of value. Nor is the mere grant of letters patent any more than proper evidence of the exclusive right to make and sell the thing protected by the letters patent. This exclusive right is the real test of value. Other cases might be cited to the same effect, but those referred to sufficiently indicate that the value of the object to be gained by these bills is the protection of the Centennial business of the plaintiffs against frauds committed and threatened with resulting loss to the plaintiffs. Such being the true view, I am of opinion that the value of the matter in controversy is sufficient to make a case of jurisdiction against each one of these defendants. All damages suffered and likely to be suffered are estimated. Indeed, the answers of some of the defendants make admissions which go far to make out a case of jurisdiction. Moreover, I think the defendants may be properly joined in one suit. Plaintiffs' business is the subject-matter in each bill, and the right claimed is exactly the same against all the defendants. The injury complained of is the same, and is being inflicted by defendants in the same method and at the same time. 1 Pom. Eq. Jur. § 274; *De Forest v. Thompson*, 40 Fed. 378; 2 *Daniell*, Ch. Prac. (6th Ed.) marg. p. 1683.

The second objection to the exercise of the injunctive process is what counsel in argument calls a "fundamental objection," based upon the fact that it is a novel application of the writ of injunction, not sanctioned by previous precedents. It is said that although the general business of the ticket broker has been suppressed by legislation in a number of states, and the interstate commerce commission has for some years urged congress to enact similar repressive legislation in respect to interstate commerce, it has never been suggested that it was within the power of the courts to furnish protection against wrongs perpetrated in this business. I have carefully considered this objection, and also the full bearing of the question, not only as affecting the private rights here involved, but as affecting the still larger public interest. It has been often judicially recognized that the use of the injunctive remedy is subject to the regulated discretion of the court, and that the court may properly take into account the public bearing of its action, and whether the result will affect the public favorably or injuriously; and the soundness of this proposition is implied in the argument of defendants' counsel, in which strenuous effort is made to show that the business of the ticket scalper is beneficial, to an extent, at least, to the public. It is perhaps just to say that this argument was directed more to sustain the general business of the broker than this particular method of doing business in regard to Centennial tickets, as brought to light in this record; for it will certainly never be seriously maintained before a tribunal or legislative body that the continuance of a fraudulent practice, thoroughly demoralizing in all its tendencies, is demanded by the public good, or what is called "public policy." It must be observed in this connection that the question now considered relates alone to the broker's method of dealing in these special Centennial Exposition tickets. I am not now concerned with the general business of the broker. Keeping this fact in mind will

serve to bring the discussion of the question, as well as its bearing, within narrower limits.

I return now to the argument based on the ground that this is a novel application of the injunction, not sanctioned by previous precedent directly in point. This argument, carried to its full logical result, would have prevented the enunciation of the first equitable principle and the establishment of the first equitable precedent for the preventive remedy. It is, indeed, an age-worn argument. It has been employed from the beginning of equity jurisprudence as a part of the objection to the extension of the equitable remedy to new conditions and new cases. This is the well-known history of the subject. Of course, this contention has been overruled, and precedent after precedent established from time to time to meet new conditions and to do full justice, until the argument has long since lost most of its force, although it is still maintained in form. It has been in answer to arguments like this that the great chancellors have stated time and again that they decline to lay down any definite rules as to when a court of equity will interpose by injunction. In fact, to do so would at once put a limit to all progress in equitable jurisprudence. The most that has been said is that in the use of the writ of injunction the court exercises sound discretion regulated by analogy; by what would be manifestly just in view of all the existing conditions, and requiring as a condition that there is no adequate remedy at law. Beyond this the courts have not gone, in the way of placing a limit on their power. It must be recognized that jurisprudence, both legal and equitable, both in respect of the right and the remedy, is progressive, that it is expansive, and that, while its great principles remain good for one time as well as another, these principles must be extended to new conditions, and this involves an extension of the remedy, and often a change in the form of the remedy. Making the injunction mandatory as well as preventive is an example of such a change. Any system of jurisprudence coming short of this would fail to meet the demands of civilization. A similar objection that novel use was being made of the writ of injunction was pressed in the case of *Toledo, A. A. & N. M. Ry. Co. v. Pennsylvania Co.*, 54 Fed. 751, and was answered by the court as follows:

"Every just order or rule known to equity courts was born of some emergency, to meet some new conditions, and was, therefore, in its time, without a precedent. If based on sound principles, and beneficent results follow their enforcement, affording necessary relief to the one party without imposing illegal burdens on the other, new remedies and unprecedented orders are not unwelcome aids to the chancellor to meet the constantly varying demands for equitable relief. Mr. Justice Brewer, sitting in the circuit court for Nebraska, said: 'I believe most thoroughly that the powers of a court of equity are as vast, and its processes and procedure as elastic, as all the changing emergencies of increasingly complex business relations and the protection of rights can demand.' Mr. Justice Blatchford, speaking for the supreme court in *Joy v. St. Louis*, 138 U. S. 1, 11 Sup. Ct. 243, said: 'It is one of the most useful functions of a court of equity that its methods of procedure are capable of being made such as to accommodate themselves to the development of the interests of the public in the progress of trade and traffic by new methods of intercourse and transportation.' The spirit of these decisions has controlled this court in its action in this case."

This objection is substantially the same as was urged against the power to employ the writ of injunction in the Strike Cases, out of which arose the contempt proceeding in *U. S. v. Debs*, 64 Fed. 724. The objection was overruled. The jurisdiction of the court, and the rightful exercise of the power to enjoin, were affirmed in this case to the fullest extent. In *re Debs*, 158 U. S. 565, 15 Sup. Ct. 900. The argument of Mr. Trumbull, counsel for the defense, against the jurisdiction of the court, was based in part upon the ground that the proceeding was novel and extraordinary, and the case one over which the national government had not before, or but seldom, exercised jurisdiction, and, further, that the case was outside of the jurisdiction of a court of equity, and the injunction, therefore, void, and a violation of the same could not be punished in a contempt proceeding. It was further objected that the bill in the original case was filed in the name of the United States, which was itself new. Answering the objection that the suit was brought by the government, Mr. Justice Brewer, speaking for the court, said:

"It is said that seldom have the courts assumed jurisdiction to restrain by injunction in suits brought by the government, either state or national, obstructions to highways, either artificial or natural. This is undoubtedly true, but the reason is that the necessity for such interference has only been occasional. Ordinarily the local authorities have taken full control over the matter, and by indictment for misdemeanor, or in some kindred way, have secured the removal of the obstruction and the cessation of the nuisance."

And referring to the point made that the proceeding was extraordinary and new in the exercise of national jurisdiction, it was observed:

"Constitutional provisionals do not change, but their operation extends to new matters as the modes of business and the habits of life of the people vary with each succeeding generation. The law of the common carrier is the same to-day as when transportation on land was by coach and wagon, and on water by canal boat and sailing vessel; yet in its actual operation it touches and regulates transportation by modes then unknown,—the railroad train and the steamship. Just so it is with the grant to the national government of power over interstate commerce. The constitution has not changed. The power is the same. But it operates to-day upon modes of interstate commerce unknown to the fathers, and it will operate with equal force upon any new modes of such commerce which the future may develop."

The court, disposing of the objection that the facts constituted a criminal offense, and that the case was one proper for criminal procedure, and not within the jurisdiction of equity, said:

"Again, it is objected that it is outside of the jurisdiction of a court of equity to enjoin the commission of crimes. This, as a general proposition, is unquestioned. A chancellor has no criminal jurisdiction. Something more than the threatened commission of an offense against the laws of the land is necessary to call into exercise the injunctive powers of the court. There must be some interferences, actual or threatened, with property or rights of a pecuniary nature; but when such interferences appear the jurisdiction of a court of equity arises, and is not destroyed by the fact that they are accompanied by, or are themselves, violations of the criminal law. Thus, in *Cranford v. Tyrrell*, 128 N. Y. 341, 28 N. E. 514, an injunction to restrain the defendant from keeping a house of ill fame was sustained, the court saying on page 344, 128 N. Y., and page 515, 28 N. E.: 'That the perpetrator of the nuisance is amenable to the provisions and penalties of the criminal law is not an answer to an action against him by a private person to recover for injury sustained, and for an injunction against the continued use of his premises in such a manner.' And in *Port of Mobile v.*

Louisville & N. R. Co., 84 Ala. 115, 126, 4 South. 106, is a similar declaration in these words: "The mere fact that an act is criminal does not divest the jurisdiction of equity to prevent it by injunction, if it be also a violation of property rights, and the party aggrieved has no other adequate remedy for the prevention of the irreparable injury which will result from the failure or inability of a court of law to redress such rights."

So, in *Shoe Co. v. Saxey*, 131 Mo. 212, 32 S. W. 1106, the supreme court of Missouri held that a court of equity might interfere by injunction to prevent persons from attempting, by intimidation, threats, or other unlawful means, to force employes to quit work and join a strike, and that a court of equity might enjoin acts threatening irreparable injury to property rights, notwithstanding such acts were also a violation of the criminal law. *Klein v. Livingston Club*, 177 Pa. St. 224, 35 Atl. 606, *Davis v. Zimmerman* (Sup.) 36 N. Y. Supp. 303, and *Elder v. Whitesides*, 72 Fed. 724, are in accord.

At this point I wish to make some observations upon the condition of things that I am just now dealing with. Here is a great international exposition,—an exposition of incalculable interest and benefit to the public. It has come to be one of the greatest institutions of our time. It is a sure and successful method of wide dissemination of practical knowledge to all the people. It furnishes a ready and entertaining means whereby the citizens of the state and of the Union may learn, in the way of an object lesson, something of the progress of a great country, and its best results. It stimulates pride, and encourages large effort and the highest appreciation of one's own country. Recognizing the public interest involved in the success of the Exposition, it has received liberal appropriation by the national and state legislatures and by the counties and citizens of the state. The great public benefits are so manifest that the court of last resort in the state has judicially declared that it is a public and county purpose for which an appropriation may be made by a county, although the Exposition is to be celebrated outside of the territorial limits of the county making the appropriation. *Shelby Co. v. Tennessee Centennial Exposition Co.*, 96 Tenn. 653, 36 S. W. 694. Judge Caldwell, speaking for the supreme court of the state, pointed out the great public advantages of the Exposition in fitting terms, as follows:

"In view of the fact that the event to be celebrated is one of no less note and importance than the birth of a great state into the American Union, and of the further fact that the Exposition is reasonably expected to attract great and favorable attention throughout the country, and be participated in and largely attended by intelligent and enterprising citizens of numerous other states, at least, it is beyond plausible debate that such an exhibition is well calculated to advance the material interests and promote the general welfare of the people of the country making it. It will excite industry, thrift, development, and worthy emulation in different avenues of commerce, agriculture, manufacture, art, and education within the county, thereby tending to the permanent betterment and prosperity of her whole people. In short, it will encourage progress, and progress will insure increased intelligence, wealth, and happiness for her people, individually and collectively. Undenably, that which promotes such an object and facilitates such a result in any county is, to that county, a county purpose, in the truest sense."

Vast sums of money have been invested in this great public enterprise. There is involved in the success of the Exposition not only the sums of money thus put into it, but the still larger indirect bene-

fits which result in the way above referred to. It is a thing in which the citizens of the state in general, and of Davidson county and the city of Nashville in particular, take just pride. It is not to be denied that the maintenance of the favorably low rate of travel enormously increases the number of people who attend the Exposition, and thereby insures its success. It is disclosed by this record, and not controverted, that the flagrant abuses to which this special Centennial rate is being subjected, with the resulting loss to the carrier companies, have caused the withdrawal of the Centennial ticket low rate by the association of railroads known as the "Trunk-Line Association," comprising all of the leading railroads east of Washington, D. C., and that such carriers refuse to restore such rate because of the loss entailed by this business of the scalpers at Nashville. It is perfectly obvious that, if every carrier in the country should withdraw its low-rate Exposition tickets, a full justification for such course of conduct is found in the facts in this record. It is equally certain that owners of lines of railway remotely situated from the Exposition, and without the local interest which controls the management of other roads, could hardly be supposed to hold the public importance of the Exposition in sufficient appreciation to submit to the great wrong and the great loss which they are sustaining. There is good ground, therefore, for the apprehension that it is now a vital question whether the Exposition shall be the success hoped for, or whether it shall go down in defeat, with state pride humiliated, simply in order that the particular practice complained of may continue. I refer to these public considerations because, as before stated, they are matters which justly appeal to the discretion of the court in determining what action shall be taken. Are the great public purposes of this Exposition to be thus put in the balance and weighed against this particular branch of the ticket scalpers' trade? It is to be just here repeated that this particular business, in its conception and execution, is, from first to last, an obvious fraud, open and obtrusive, and without a single redeeming feature, so far as I can see. Is it to be declared that we are under a system of jurisprudence which furnishes no remedy for a purely civil wrong such as this? Are the courts of the country powerless to deal with the situation, and must they make the humiliating confession that, great as this wrong is, we have no civil remedy to which appeal may be made for protection? I am certainly unwilling to accede to a proposition such as this. It is further urged that the evil is one which can only be met by appropriate legislation,—by the enactment of a criminal statute suppressing the business through the strong arm of the criminal law. In this view I do not concur. Many acts constitute at the same time a public wrong and the invasion of a private right, and the fact that adequate punishment may be provided or may not be provided for a public wrong done is not in the way of the court furnishing redress for a civil wrong also inflicted in the same act. Indeed, this same objection was urged in the Debs Case, just as it is by defendants' eminent counsel here, and the argument was met by the court in language as follows:

"The law is full of instances in which the same act may give rise to a civil action and a criminal prosecution. An assault with intent to kill may be punished

criminally, under an indictment therefor, or will support a civil action for damages, and the same is true of all other offenses which cause injury to person or property. In such cases the jurisdiction of the civil court is invoked, not to enforce the criminal law and punish the wrongdoer, but to compensate the injured party for the damages which he or his property has suffered, and it is no defense to the civil action that the same act by the defendant exposes him also to indictment and punishment in a court of criminal jurisdiction. So here the acts of the defendants may or may not have been violations of the criminal law. If they were, that matter is for inquiry in other proceedings. The complaint made against them in this is of disobedience to an order of a civil court made for the protection of property and the security of rights. If any criminal prosecution be brought against them for the criminal offenses alleged in the bill of complaint, of derailing and wrecking engines and trains, assaulting and disabling employes of the railroad companies, it will be no defense to such prosecution that they disobeyed the orders of injunction served upon them, and have been punished for such disobedience."

The case simply calls for an application of the injunctive process to prevent complainants' business from fraud and obstruction, and a business is just as much the subject of suit, with a right to protection, as ordinary forms of tangible real and personal property. Whatever doubt may have been expressed at any time, the cases are now agreed upon this proposition. It needs no extended statement to make it manifest that the right to carry on a business without interference, without fraud, and without obstruction, is one of the most valuable of all rights. Indeed, in the commercial world the right of greatest value is the right to freely carry on a lawful business without unlawful interruption. It is a substantial right, which may be protected by any remedy known to the court as fully as a constitutional or statutory right, and as fully as a right in the ordinary forms of property. In *Scott v. Donald*, 165 U. S. 108, 17 Sup. Ct. 262, already referred to, it was held by the supreme court of the United States that the constitutional right of the complainant to import for his use, from time to time, ale, wines, and liquors, the products of other states, might be protected by injunction from repeated invasion by seizure of goods under color of an unconstitutional statute of the state of South Carolina. The ruling was based on the ground of avoiding a multiplicity of suits, and the want of adequate remedy at law. In *Arthur v. Oakes*, 11 C. C. A. 209, 63 Fed. 310, it was held (Mr. Justice Harlan delivering the opinion of the court) that, while a contract for personal services could not be enforced by injunction, nevertheless, when employes quitting the service of their employer combine to obstruct the business of such employer by force, threats, or other unlawful methods, such as inducing other employes to quit, and deterring others from taking the places of those leaving, such an injury might be prevented by injunction, and the right to carry on the business without molestation protected. This, too, would be a novel use of the injunction. In *Davis v. Zimmerman*, already referred to, it was expressly adjudged that the business of a person, if lawfully conducted, is a property right, and may be protected by injunction from injury or destruction. In a full note to the case of *Arthur v. Oakes*, as reported in 10 Am. Ry. & Corp. Rep. 443 (s. c., 63 Fed. 310), cases are cited in which the same principle is applied to railroads, carriers by water, manufacturers, producers, and others. All these lines of business