

struction remained in the road was a fresh injury, and justified a new action, and yet the Court in that case refused the injunction, upon the ground that adequate redress for the injury might be had at law.

If, to be sure, actions had been brought at law by this complainant, and damages recovered, and the defendant still persisted in permitting the race to remain in a defective condition, the Court would then be authorized to interfere by injunction, because it would then be shown (the right of the plaintiff being established), that the Court of Law was inadequate to afford him relief. No such case is, however, exhibited by the bill. It does, to be sure, allege that suits at law had been instituted, but it also appears that in these suits the parties were reciprocally plaintiff and defendant; and without being informed of the nature and object of these suits, or the result of them, we are merely told what was the construction put by the Court upon the will of the late Samuel Owings, respecting the rights and privileges of the parties, founded upon the will. It is certainly not stated or shown anywhere in these proceedings that the present complainant had repeatedly appealed to the legal tribunals for redress, and that although his right thereto was established, their power was not sufficient to afford him adequate relief.

But considering this view to be untenable, and assuming that a Court of Equity is competent, and ought to exercise its extraordinary jurisdiction upon the facts charged by this bill, supposing them to be admitted, or established by the evidence, I should yet very much question the propriety of doing so in the present case, and this upon two grounds.

*First*, because I am far from being satisfied that the race is not in as good, or better, condition now than it was during the life of Samuel Owings, under whom both parties claim; and *secondly*, because there are certainly plausible reasons disclosed by the evidence for believing that the injury complained of is, to some extent at least, caused by the acts of the complainant himself. And if either ground can be maintained upon the proof, there would seem to be no injury for which repara-