

Among other things, a plaintiff must shew that an injunction before the hearing is necessary to protect against irreparable injury. Mere inconvenience is by no means enough. Irreparable injury means something that cannot be atoned for by damages or in some other way adequately remedied.

Again, the balance of convenience must always be considered; and the interference with an established industry in actual operation is regarded as a serious element.

There are many cases in which an interim injunction has been granted to prevent the establishment of a business which is likely to result in a nuisance, but none in which a business established and in operation for some time and which is alleged to constitute a nuisance has been interfered with by an interim order.

This business was established in 1887. In December, 1906, a true bill was found for a nuisance at the General Sessions. The prosecution was not pressed, for some reason; and, after the indictment had been traversed from time to time till May, 1908, it was dropped from the list; and nothing more had been done.

An action, *Smyth v. Harris*, was begun in October, 1912; and, after a motion for an injunction, a speedy trial was arranged, but a settlement was made—the exact nature was not disclosed.

The matter remained dormant until the commencement of this action on the 2nd November, 1916; notice of trial was given on the 31st March; and the case stood to be heard in its turn.

What was really sought was not an interim injunction, but that this case should be given priority over other cases standing for hearing.

The plaintiffs said that the motion had been delayed till they were ready for trial. The defendants said that, not anticipating a trial out of ordinary course, they were not ready.

The learned Judge thought that he should not interfere. The action was now ready for hearing, and it would not be right to displace other actions, or to force the defendants to trial out of ordinary course. There had been no great diligence, there would be no irreparable injury, and the defendants might be prejudiced.

The defendants were negotiating for the purchase of a new site; and, if the arrangements could be carried through, they would move from the present location; in which event the action might not have to be prosecuted.

The material shewed that recently the smells complained of had not been as bad as formerly. The defendants should undertake to use all reasonable endeavours to ameliorate the condition until the trial.

Costs to be in the cause unless the trial Judge should otherwise direct.