

under those laws; they are subject to inspection; they are subject to all these regulations, and they must live within them. If such is not the case, then the legislature is powerless to govern and to guard the interests of the public in the carrying out of what is after all a very large and important industry in this province. I submit that when I come here and show that the act of this defendant company is illegal, whether there is going to be an injury to one, or to the public—that is not a matter which concludes me in this application—I am entitled to an injunction. I submit that the premise that I have to make out is, is it a legal or illegal act? And having established that it is an illegal act under the statute law of the province, then the injury is not a matter for inquiry; the observance of the law must be had.

Now, following out that, I refer to the case of Attorney-General vs. Ely, Haddenham and Sutton Railway Company, in 4 Chancery Appeals 1869, page 194; and particularly to the language of Lord Hatherley at page 199. There the application was to compel the observance of a clause of the Railway Clauses Act. Lord Hatherley: "The rights of those going to Grunty Fen cannot be destroyed on the plea of giving additional benefits to those going in another direction. As to the argument that the Attorney-General represents the whole public, he represents the whole public in this sense, that he asks that right might be done and the law observed. The law is not observed by giving advantages to persons going to Ely to the detriment of those going to Grunty Fen. The question is, whether what has been done has been done in accordance with the law; if not, the Attorney-General strictly represents the whole of the public in saying that the law shall be observed."

There is the other fact, too, Your Lordship—we have it in this evidence here that some 222 Chinamen are employed underground; that in itself must affect the public. If in the labor market there should be employment for 222 men who can fulfill the provisions of the law, why should they be deprived of that right? The employment of these 222 Chinamen means the non-employment of 222 white men who would not be hit against by this statute.

His Lordship—That is not a public matter.

The Hon. the Attorney-General—The colliery company flagrantly, as I submit, refused to comply with the general law. And, following out my reasoning, and as I submit, founded upon authority, I now refer to the case of Stevens vs. Chown, 1901, 1 Chancery Division, page 894; the head note is very short and very clear: "Where a statute provides a particular remedy for the infringement of a right of property thereby created or re-enacted, the jurisdiction of the High Court to protect that right by injunction is not excluded, unless the statute expressly so provides." Now it may be taken as admitted that

this statute in question has no provision of exclusion of that kind; and as I submitted to Your Lordship, I claim that the power is in the court, an inherent power in the court, upon equitable principles; that power of injunction I submit exists. This case of Stevens vs. Chown was a case dealing with the Market Acts, which, after all, may be said to be dealing with business of a public character—it is treated by laws enacted by the Imperial Parliament; similarly, the coal mining regulations in this province. Now, Mr. Justice Farwell says, at page 902: "The Act in my opinion, provides for the substitution of a new market place in lieu of the old market place, and new tolls which extend to and include the old tolls, that is to say, there are not two sets of tolls, but the tolls allowed by the Act include the old tolls," and so on. Then he deals with Emperor of Austria v. Day, which your Lordship referred to, at page 904: "It was argued that unless an action at law would lie, the court would not have granted an injunction. I entirely dissent from that view, and I refer to the statement of the law in Emperor of Austria v. Day, as expressed by one of the greatest masters of equity, the late Lord Justice Turner. It was a case in which the Emperor of Austria sought to restrain the printing, the dissemination of notes issued by Kossuth, a Hungarian refugee, and made in imitation of notes circulating in Hungary. Turner, L. J., says: 'It is said that the acts proposed to be done are not the subject of equitable jurisdiction, or that if they are, the jurisdiction ought not to be exercised until a trial at law shall have been had. To neither of these propositions can I give my assent. I agree that the jurisdiction of this court in a case of this nature rests upon injury to property actual or prospective, and that this court has no jurisdiction to prevent the commission of acts which are merely criminal or merely illegal, and do not affect any rights of property. But I think there are here rights of property quite sufficient to found jurisdiction in this court: I do not agree to the proposition, that there is no remedy in this court, if there be no remedy at law, and still less do I agree to the proposition that this court is bound to send a matter of this description to be tried at law. The highest authority upon the jurisdiction of this court, Lord Redesdale, in his Treatise on Pleading, in enumerating the cases to which the jurisdiction of the court extends, mentions cases of this class: 'Where the principles of law by which the ordinary courts are guided give no right, but, upon the principles of universal justice, the interference of the judicial power is necessary to prevent a wrong, and the positive law is silent.' It is plain, therefore, that, in the opinion of Lord Redesdale, who was pre-eminently distinguished for his knowledge of the principles of this court, the jurisdiction of the court is not limited to cases in which there is a right of law. There is, indeed, a familiar instance in which the jurisdiction is not so limited—