Liberty

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EDITORIAL COMMENT

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Probably one of the most difficult problems challenging the earnest and serious minded thought of the American people today is the abuse of the extraordinary equitable remedy, the injunction, and the consequent encroachment by the courts upon their liberties as set forth in the Constitution. The situation has a many sided aspect, economic, social, and the prominent problem of dry law enforcement.

The movement in Congress is crystallized by the bill of Senator Vandenburg of Michigan, which has as its object a direct attack upon the abuse of the injunction in curbing the freedom of the press. This bill seems to strike the keynote of the feeling of general dissatisfaction of American people with the working out of the injunction, because it actually threatens the American system of government of the people, by the people, and for the people.

For example, permit me to cite the instance in which the Volstead Act provides for the application of the injunction in padlocking property alleged to be used in the violation of the dry laws. This is in apparent opposition to Article XIV of the Constitution which declares: "Nor shall any state deprive any person of life, liberty, or property without due process of law—," although our Courts have held otherwise.

The abuse of the injunction threatens our most cherished rights, purchased at a dear price, especially that of trial by jury, because it challenges the validity of the right of trial by jury in the name of fancied expediency or emergency. For a free people, trial by jury is infinitely superior to any other method of trial that the wit of man has yet created. To deprive the people of the jury would deny them the only department of government in which they have the constitutional right to directly participate, because it is only through the jury that the people are actively permitted to execute the law of the land, and administer justice.

The threatened invasion of liberty by the injunction, liberty which has been established and perpetuated at all too great a cost forms a subject which we cannot contemplate too closely, and evil will be the day in the not too distant future, when we supinely acquiesce to the continued infringements of our constitutional rights or consent to their abolition.

Where the injunction restrains the use of the strike in labor disputes, it apparently contradicts the Thirteenth Amendment to the Constitution, which declares itself against "involuntary servitude."
Here again the right of trial by jury is denied, because of the presumption of the courts that a jury trial is not required in suits in equity brought to restrain strikes. It is the humble opinion of the writer that this is a direct infringement of a constitutional right.

"Had there been no Court of Star Chamber," says a distinguished English writer, "there would have been no rebellion against Charles I." Let us heed this warning and remember that for a thousand years the jury has stood as a bulwark, guarding the rights of the people. Let us resolutely hinder any curbing of those rights by the injunction.

All these remarks are prefatory to the fact that the Law Review takes great pleasure in announcing that Joseph E. Tierney, a member of the Milwaukee Bar, has written a splendid, timely article entitled, "Legal Encroachment Upon Liberty," which will be published in the forthcoming June issue of the Review.

C. F. Z.