this is fundamental; for the competition contemplated there was unlawful while that of the municipalities contemplated here is entirely lawful.

We deem it unnecessary to review the many other cases cited by petitioner where suits against officials have been sustained. An examination of them will disclose the presence of fraud, coercion, malice, conspiracy, or some other element or condition of controlling force—none of which, as shown by the findings which we have accepted as unassailable, exists in the present case.

Decrees affirmed.

MR. JUSTICE BLACK concurs in the result.

DUKE POWER CO. ET AL. *v.* GREENWOOD COUNTY ET AL.

CERTIORARI TO THE CIRCUIT COURT OF APPEALS FOR THE FOURTH CIRCUIT.

No. 397. Argued December 7, 8, 1937.—Decided January 3, 1938.

Decided upon the authority of *Alabama Power Co.* v. *Ickes, ante,* p. 464.
91 F. (2d) 665, affirmed.

CERTIORARI, *post,* p. 675, to review a decree affirming the dismissal, 19 F. Supp. 932, of a bill to enjoin performance of a contract like those involved in the two cases last preceding. For an earlier phase of this litigation, see 299 U. S. 259.

Mr. W. S. O'B. Robinson, Jr., with whom *Messrs. Newton D. Baker, R. T. Jackson, W. R. Perkins, H. J. Haynsworth, J. H. Marion* and *W. B. McGuire, Jr.* were on the brief, for petitioners.

The evidence shows that the project was included in the comprehensive program of public works and that

federal funds were allotted for its construction pursuant to the PWA power plan to reduce power rates.

Title II of the National Industrial Recovery Act, rightly construed, does not authorize the action of the Public Works Administrator in this case. If construed otherwise it is unconstitutional in that (a) it invades the reserved powers of the States; (b) it is not within any power delegated to Congress by the General Welfare Clause or by any other provision of the Constitution; (c) it is an unauthorized delegation of the power of the Congress to spend for the general welfare, and (d) as applied in this case, it deprives the petitioner of its property without due process of law.

The action of the Administrator will be the proximate cause of the injury which petitioner will sustain.

This was found as a fact by the District Court both on the original hearing and on the retrial.

The injury to petitioner will be the inevitable result of the act of the Administrator in authorizing the project,—a result necessarily contemplated at the time of the authorization. Rates were fixed below those of petitioner in order to attract petitioner's customers, and contracts subject to the Administrator's approval were made with petitioner's customers. The very conditions under which the loan is being made contemplate the taking of petitioners business, and the repayment of the loan even in part necessitates the continuation of rates which will attract petitioner's business.

A defendant is responsible for the consequences of his wrongful act which might reasonably have been foreseen. *Milwaukee & St. Paul R. Co.* v. *Kellogg,* 94 U. S. 469.

The effect upon petitioner's rates and business was not only reasonably foreseeable but was in fact foreseen. The Administrator knew that his act in authorizing the project and in allotting the funds for its construction, was calculated to damage petitioner and would do so.

Petitioner is not complaining of competition by the County and a decree in favor of petitioner would leave the County free to compete with petitioner in any lawful way. But, should the plant be constructed, its operation by the County in competition with petitioner would arise out of and be an immediate consequence of this action of the Administrator.

The rule that the construction of a competing municipal plant may be enjoined, if the construction would be illegally financed, as, for instance, by the issuance of bonds in violation of a constitutional or statutory debt limitation, is well established. And it is no defense to a suit by a utility which would be injured by such competition that the utility has no exclusive franchise, and that the municipality has the lawful right to compete with it. If the respondents' position were sound, such a suit would fail on the ground that, the municipality having the lawful right to compete, no right of the plaintiff would be infringed and the resulting damage would be *absque injuria.* Contrary to the contention of the respondents, however, the right of the utility to maintain such a suit is uniformly recognized. [Citing: *Campbell* v. *Arkansas-Missouri Power Co.,* 55 F. (2d) 560; *Oklahoma Utilities Co.* v. *Hominy,* 2 F. Supp. 849; *Iowa Southern Utilities Co.* v. *Cassill,* 69 F. (2d) 703; *Gallardo* v. *Porto Rico Ry. L. & P. Co.,* 18 F. (2d) 918; *Colorado Central Power Co.* v. *Municipal Power Development Co.,* 1 F. Supp. 961; *Mississippi Power Co.* v. *Starkville,* 4 F. Supp. 833; *Frost* v. *Corporation Commission,* 278 U. S. 515; *Citizens Electric Illuminating Co.* v. *Lackawanna & W. V. Power Co.,* 255 Pa. 145; 18 Harv. L. Rev. 412; 8 Harv. Law Rev. 11; *Hitchman Coal & Coke Co.* v. *Mitchell,* 245 U. S. 229; *Truax* v. *Raich,* 239 U. S. 33; *Hammer* v. *Dagenhart,* 247 U. S. 251; *Pierce* v. *Society of Sisters,* 268 U. S. 510. Other citations to support the petitioner's right to raise the main questions are here

omitted because included in the summary of the like argument in the case last preceding.]

The petitioner's business is a private property interest which the law will protect against invasion through the unlawful acts of a public official. *Pierce* v. *Society of Sisters, supra; Philadelphia Co.* v. *Stimson,* 223 U. S. 605.

A public official may be enjoined from illegal acts involving the unauthorized expenditure of public funds at the suit of an individual who will be specially grieved thereby. *Frothingham* v. *Mellon,* 262 U. S. 447, 486; *Warner-Quinlan Asphalt Co.* v. *Carlisle,* 158 App. Div. (N. Y.) 638.

In restraining illegal action by a public official at the suit of a party specially grieved by such action, a court of equity is exercising a well established equitable jurisdiction.

On the same principle equity will enjoin a common or public nuisance at the suit of a private person who will suffer a special grievance therefrom. *Mayor* v. *Alexandria Canal Co.,* 12 Pet. 91, 98–100; *Corning* v. *Lowerre,* 6 Johns. Chan. 439; *Truax* v. *Raich, supra.* p. 37.

The objection to suits by taxpayers generally to restrain the enforcement of appropriation statutes on the score that to permit such suits would lead to a multiplicity of actions, with the attendant inconveniences resulting therefrom, has no application to a suit by a party specially aggrieved. The interest that will justify such a suit is of a sort that will give rise to no such danger or inconvenience. This is illustrated by the fact that the validity of even a criminal statute may be challenged by a party who will sustain a direct injury to his property rights by the enforcement of the statute.

The District Court should have limited the retrial of the cause to the question of whether or not there had been

any material change in the situation since the entry of the original decree of injunction.

Mr. W. H. Nicholson, with whom *Messrs. James F. Dreher* and *D. W. Robinson, Jr.* were on the brief, for Greenwood County and its Finance Board, respondents.

Mr. Jerome N. Frank, with whom *Attorney General Cummings, Solicitor General Reed, Assistant Attorney General Morris,* and *Messrs. Enoch E. Ellison* and *Robert E. Sher* were on the brief, for respondents Administrator et al.

Mr. Justice Sutherland delivered the opinion of the Court.

This case presents the same question as that just decided in Nos. 84 and 85, *ante,* p. 464. The respondents are essentially the same, with the addition of Greenwood County, in the State of South Carolina, and the members of the finance board of the county. The suit was brought to enjoin the construction and operation of a local electric power plant in the county, and the making of a loan and grant by the federal administrator to the county, for that purpose, under the provisions of Title II of the National Industrial Recovery Act, set forth, so far as material, in Nos. 84–85, *supra.*

The case was here on a previous writ, upon consideration of which this court, because of substantial irregularities in practice, reversed the judgment of the court below with directions to vacate the decrees entered by the district court, and remand the cause to that court with directions to permit the parties to amend their pleadings in the light of existing facts, and retry the cause upon the issues then presented. We expressed no opinion upon the merits or the relevancy or effect of the evidence. 299 U. S. 259. Accordingly, the case was remanded to

the district court, and reheard. The district court, after making findings of fact and conclusions of law, dismissed the bill. The court below, upon appeal, considered the case fully, and delivered an exhaustive opinion. It held (1) that the statute, under which the administrator proposed to act, was constitutional; (2) that he acted within the power granted him by the statute; and (3) that in any event no legal right of plaintiffs was violated by what had been done. 91 F. (2d) 665; see also preceding decision, 81 F. (2d) 986.

Upon the question of petitioners' standing to maintain the suit, the lower court held, in substance, that the competition proposed by the county was lawful and that even though the administrator were without authority to make the proposed loan and grant, no legal right of petitioners was thereby invaded. The opinion upon this branch of the case is in harmony with the views we have just expressed in Nos. 84 and 85; and it follows that the decree must be, and it is,

Affirmed.

MR. JUSTICE BLACK concurs in the result.

TEXTILE MACHINE WORKS *v.* LOUIS HIRSCH TEXTILE MACHINES, INC.

CERTIORARI TO THE CIRCUIT COURT OF APPEALS FOR THE SECOND CIRCUIT.

No. 62. Argued November 19, 1937.—Decided January 3, 1938.

1. Claims 1, 3, 14 and 15 of Patent No. 1,713,628, to Schletter, May 21, 1929, for an attachment for "flat" or "straight" knitting machines, including machines of the "full-fashioned" type, *held* invalid for want of novelty. Pp. 494, 497.

Claim 14, taken as typical, defines the invention as the combination in a straight knitting machine of (a) a set of yarn guide carrier bars for operating yarn guides traveling less than the