

dismissed.

Holden S. Felton

Alban M. Wood
Solicitors for Complainants.

STATE OF MARYLAND,)
FREDERICK COUNTY,) to-wit:

I HEREBY CERTIFY, That on this 11th day of September, 1939, before me, the subscriber, a Notary Public of the State of Maryland, in and for Frederick County, personally appeared William R. Crum, one of the above-named Complainants, and made oath in due form of law that the matters and things contained in the foregoing Answer are true to the best of his knowledge and belief, and that the within Demurrer is not intended for delay.

WITNESS my hand and Notarial Seal.



Edith E. Wickham
Notary Public

ORDERED this 11th day of September, in the year 1939, by the Circuit Court for Frederick County, in Equity, that the Demurrer contained in the foregoing Answer be and it is hereby overruled.

Edward S. Delaplaine

Arthur D. Willard
JUDGES.

Filed September 11, 1939.

OPINION AND DECREE

WILLIAM R. CRUM AND	"	NO. 13,505 EQUITY
SUSAN M. CRUM,	"	IN THE CIRCUIT COURT
VS.	"	FOR FREDERICK COUNTY,
THE BURGESS AND COMMISSIONERS	"	IN EQUITY.
OF MIDDLETOWN, A BODY	"	
CORPORATE	"	

OPINION

The complainants are owners of a property, improved with a dwelling and flour mill, situated near Harmony, in Frederick County, Maryland.

The bill of complaint alleges that a mill has been located on this site for more than 70 years, and that the various owners of it have always derived power for its operation from the water of a creek. The bill further alleges that the Burgess and Commissioners of Middletown, the defendant corporation, has purchased from Upton Shepley three springs, which furnish a material part of the water flowing into a mill dam and furnishing power for the mill; that the defendant intends to lay a pipe line to divert a material part of the water of the creek from its natural course in order to increase the water supply of Middletown; and that such diversion would materially diminish the power necessary to operate the mill, thereby inflicting irreparable loss and damage upon the complainants.

The complainants pray for an injunction to restrain the defendant, its agents, officers, employes and contractors (1) from laying a water pipe above the mill to divert the water from flowing from the springs into the creek in its natural flow; and (2) from diverting the water from flowing from the springs in its usual flow and channel to the mill.

On April 14, 1937, the Court passed an Order requiring the defendant to show cause on or before April 30, 1937, why the injunction should not be issued as prayed. The defendant filed a demurrer and answer, admitting that it had purchased the springs and that it was