

"Nothing can be clearer, than the power of the Court to prohibit the obstruction of water-courses, the diversion of streams from mills, the back-flowage upon them, and injuries of the like kind, which, from their nature, cannot be adequately compensated by damages at law." Lamborn vs. Covington Co., 2 Md. Ch. 409. So, in this State riparian owners have a common right to the enjoyment of a stream, and no one has the right to obstruct, diminish or accelerate "the impelling force of a stream of running water." Baltimore vs. Appold, 42 Md. 456. In Kelly vs. Nagle, 150 Md. 125, the Court of Appeals quotes Tiffany to the effect that "a riparian proprietor cannot make use of the water for purposes not connected with his own land, as by supplying it for consumption to other persons not living thereon." Tiffany on Real Property, vol. 1, 661. The Court of Appeals accepted this statement as "a sound statement of the law" and expressly declared that no riparian owner can legally direct the water of a stream to nonriparian land or grant to another the permission to do so.

So positive is this prohibition against diversion of a stream for nonriparian purposes that, even though a lower riparian owner makes no objection while a water company is constructing costly works to effect the diversion, the owner is not prevented from complaining of the diversion by estoppel. Paterson vs. East Jersey Water Co., 77 N. J. Eq. 588, 78 A. 1134. But in the case before us, the complainants did make objection before the abstraction commenced. More than two years ago, they applied for an injunction when they heard that the defendant was laying a pipe line to abstract the water that came from the springs. Nevertheless, the defendant continued its project and diverted the water into its reservoir. The abstraction without the consent of the complainants was an invasion of their rights. In a Georgia case brought by lower riparian owners, the Court stated: "The defendants show no right to divert the waters of this creek from lower riparian owners. They were bound to know that it was unlawful for them so to do. They were chargeable by law with notice of the superior rights of lower riparian owners of land on this stream. They knew that the diversion of a substantial portion of the water of this stream from the land of the plaintiffs was unlawful and a trespass." McNabb vs. Houser, 171 Ga. 744, 156 S. E. 595, 74 A. L. R. 1122.

In the case now before us the complainants testified that they had failed to rebuild the dam because the diversion of water into the Middletown reservoir had made Little Catoclin Creek dwindle to such an extent that to restore the dam and attempt to operate the mill under present conditions would be useless. This explanation has been received by the defendant with doubt; but regardless of the defendant's doubt, the fact remains that if there is an injunctive right at the time of an original decree the injunctive right continues to exist although the defendant has taken action at his own risk in violation of the rights of the complaining parties. In a recent case, where confidential trade secrets had been disclosed to a manufacturer, the manufacturer was held not entitled to dissolution of the injunction which restrained it from the use of the trade secrets on the ground that it was a member of the public to whom a disclosure was made in subsequent patents, because a dissolution would permit the manufacturer to profit by its own wrong. Shellmar Products Co. vs. Allen-Qualley Co., 87 Fed. 2d 104.

In an Opinion of the Court of Appeals, Chief Judge Boyd stated: "Of course there can be no doubt about the general doctrine that after a Court of Equity has acquired jurisdiction over the parties in an application for an injunction they can not ordinarily deprive it of jurisdiction by doing, what was sought to be enjoined, before the Court acts, and that it may in proper cases require restoration or compensation." Konig vs. Baltimore, 128 Md. 472. For instance, in a suit for an injunction to stop the erection of a building, where the respondent proceeds with the completion of the building pending the hearing of the case,