no real injury; nevertheless, I will make you pay for the privilege." The case of *The Rochdale Canal Company* v. *King*, cited by the plaintiff's counsel, was very different. There the canal company had built their canal at their own expense, under two acts of parliament, which jealously protected their right to the water, permitting the use of it to the mill owners for one purpose only. These acts, and all the provisions they contained for protecting the rights of the company and limiting the use of the water by other persons, formed a contract between the company and the public, and any breach of these provisions, any use or abstraction of the water for other purposes than those specified, was a violation of this contract; besides, if one mill owner had a right to extract the water for one purpose, he and all other mill owners could abstract it for that or any other purpose to the irreparable damage of the company, who, if they were willing to part with the water for any purpose, had a perfect right under such circumstances to demand some compensation for its use. On this principle *Lord Cranworth* would have thought it right to grant the injunction in the case cited, expressly however distinguishing it from the case of nuisance, which this is, and in which he lays it down, that when the injury is inappreciably minute, the party is entitled to what the assertion of the legal right will give him, and to nothing more. If therefore we are to suppose that the plaintiff has no mill on his property, and that the only effect of the defendant's dam is to raise the water ten inches on the bank where his land is, which for aught that appears, may be attended with no sensible damage to his property, I do not think him entitled to an injunction, although he may be able to maintain an action for the injury, such as it is. That it does not follow that because a party would recover at law that he is entitled to an injunction in equity, is laid down in many cases, amongst which I may instance—*Attorney General* v. *Nichol*, *Wynstanley* v. *Lee*, and *Soltau* v. *DeHeld*. I do not mean to dispute the proposition that the court has jurisdiction to restrain continued injury in the nature of tort. It restrains repeated trespass after several recoveries at law, although capable of being compensated in damages; and the same doctrine must extend to injuries in the nature of tort. The principle is to prevent multiplicity of actions; but for this purpose not only must the injury be substantial and such that the party would be justified in reason in bringing repeated actions for the purpose of redressing it, but it would seem that even in such cases the exercise of this jurisdiction is discretionary, and the court is bound to weigh the inconvenience to either party of granting or withholding the relief sought. If the injury be merely nominal, and such that the party would be warranted in reason only in bringing an action once in twenty years for the preservation of his right, as in the case of raising water a few inches on the bank of a river without injuring the land, the court certainly would refuse to interfere. A party cannot apply to the court on the principle of preventing a multiplicity of suits when he himself is the author of the mischief of which he complains, and has of course the remedy in his own hands by simply refraining from bringing a number of actions, when he would be justified in reason only in bringing one action in a long period of time for the preservation of his right. In short, where the only reasonable purpose of the litigation is the preservation of the right, for which an action once in twenty years will suffice, it is not a case which admits of the application of the principle of preventing a multiplicity of suits, the party being the author of his own mischief and having the remedy in his own hands. The doctrine however does not seem to stop here. It would appear from the language of the court in *Attorney General* v. *Nichol, and Soltau* v. *DeHeld*, that although the injury is substantial, and it would not be unreasonable for the party aggrieved to bring an action from time to time in order to redress it, the question still remains, whether it is of that grave character which would induce the court to interfere for its prevention, to the great detriment of the party committing it. Where the injury is merely wanton, no doubt the court would interfere in such a case. But neither the heightening of the wall in the *Attorney General* v. *Nichol*, nor the use of the bells in *Soltau* v. *DeHeld*, nor the back-flowage of water in our own case, are mere wanton injuries. The first and last were done in the prosecution of the party's trade or business, the other in the exercise of religious worship. In the two cited cases, if it had appeared that the injuries complained of were not destructive of daily comfort and convenience, I doubt whether the court would have interfered on the principle of preventing multiplicity of actions where the detriment to the other party would have been severe. But, however this may be, I apprehend that it cannot be said with any certainty that if Mr. *Graham* had no mill on his property the back-flowage on his land would be productive of any material injury.

We then come to the question whether the court is to interfere by injunction to protect the business carried on at the plaintiff's saw-mill. Upon this point I apprehend it is to be quite clear, that before the court can be called into action for the protection of one party, and to the detriment—perhaps ruin—of another, the party seeking its aid must shew that he has some substantial interest to protect. Suppose a party had built a mill, which he could not by any contrivance make to work at all; would the court interfere at his request to compel the proprietor below him to demolish his works? I apprehend not: and the same principle must apply where it appears satisfactorily that his mill will not pay expenses, or more than pay expenses, or yield enough to make it worth any reasonable man's while to work it. The court deals only with reasonable people, and will not countenance a person acting from vexation or caprice. Another remark should be made here. It appears that when this suit was commenced *Cunningham* owned Lot 33, and it is stated that after the commencement of the suit the defendant purchased it from him. Although at the time of the commencement of the suit *Graham* penned the water of the stream back upon Lot 33 to the extent of thirty inches or more, it cannot be said that he thereby did any wrong to any one, because *Cunningham* did not complain of it. Nor can it be said that *Burr* was wrong in purchasing Lot 33 from *Cunningham* after the commencement of the suit, and withdrawing the consent to the raising of the water on it, in order, if possible, to protect his works below the plaintiff's mill. The situation of the parties is very similar. *Burr* backed the water upon Lot 31, *Burgess* not complaining of it. Afterwards *Graham* purchased part of this lot, built a mill upon it, and is entitled, if he have a valuable right to protect, to compel *Burr* to lower his dam so as not to injure that right. On the other hand, *Graham* backed the water greatly upon Lot 33, *Cunningham* not objecting. *Burr* then buys the lot from *Cunningham*, and as, in imitation of *Graham*, he could build a mill upon it and compel *Graham* to demolish his works, so he can avail himself of his ownership of it to protect his own works below the plaintiff's. Nor is it material that this right was acquired after the commencement of proceedings. It was acquired without fraud or wrong, and defendants often acquire after the commencement of suits the means of resisting them, although the circumstance of their being subsequently acquired may affect the liability to costs. Now I am of opinion that if *Graham* can acquire a water privilege only by committing a wrong upon *Burr*, he has in fact no privilege or right at all. The court cannot recognize a right founded on a wrong, or sanction such wrong by protecting such supposed right, which, if it could be supposed to exist, would be nothing more or less than a right to commit a wrong—a manifest impossibility, and the proposition of which involves a contradiction in terms. It is true that while *Cunningham* acquiesced, it was no wrong, and *Graham* had a right founded on the gratuitous permission of another. It may be true also, that even if *Cunningham* had resented and objected to this proceeding as a wrong, *Burr* would not have been permitted to complain of it, as it was no wrong to him. But the moment