

time may be open to criticism, but it is simpler to confine the rights of the surface owner to that portion of the super-incumbent space which he may conceivably make use of with the surface.

We then reach a situation not unlike that of the owner of land on the bank of a navigable river, and parallels exist between the rights of such an owner in respect of the water of the river and the rights of the owner of any land to the air in passage over it. For example, the one is entitled to have the water and the other the air come to him unpolluted. It is not difficult to extend this analogy and to assimilate the rules of law relating to the use of the air spaces for passage to those which govern the use of a navigable river. The owner of land on the bank of a navigable river, like the owner of land abutting on a public road, has the right to compel a reasonable use of the highway. *Jessel, M.R.*, in an action (1) for an injunction to restrain the owner of a wharf from permitting to tie up at the wharf a ship of such a length that she projected in front of the adjacent property, refused the injunction on the ground that the user in question was in fact a reasonable user of the river, and referred to the case of a carriage stopping at one of two adjacent front doors. Such a stoppage was in itself, as he pointed out, without question a reasonable use of the highway, notwithstanding that the adjacent front door might be momentarily blocked. Equally, it was not unreasonable for the carriage to wait, but if, while waiting, the adjacent owner drove up, it was the duty of the waiting carriage to give him place, and a refusal would make the user of the highway unreasonable. The question, he said, was, in all cases, one of the reasonableness of the conduct in question. Thus it has been held in England that cattle grazing on a public highway may be restrained damage feasant (2); that a plaintiff using a highway to interfere with a pheasant drive has no action if he is forcibly prevented from doing so (3), and that a racing tout has no right to use a highway for the purpose of spying upon a running of race horses upon the land of the adjacent owner (4). None of these forms of user are reasonable,