

Whether, when the purity of the air or the quantity of running water* is in question, the law imposes an additional test, may be doubted; if so, it is done in the interests of public policy, and does not affect the nature of the right.

Several important consequences flow from considering these rights as corporeal. First, they cannot be *granted away*. These rights are rights against all the world, to prevent interference with property; and if they could be granted away, the only result would be that the grantee, having himself no rights over his grantor's land, would have the right to prevent others from interfering with its natural condition. The right to sue for a nuisance is no more severable than the right to sue for a trespass.

Secondly, they cannot be *destroyed*. Property cannot exist without the incidents annexed to it by law for its protection.

Thirdly, not being rights over the land of another, they cannot be *released*.

Fourthly, being corporeal rights, easements may be granted in them. The right to maintain a nuisance is in strictness a right in or over another's land, and is subject in every respect to the usual laws governing the origin, continuance, and destruction of easements.†—*Harvard Law Review*.

MAY A NEWSPAPER REPORT SLANDER?—Of course a newspaper *may*; but will it be liable in damages if it does? It is clearly settled law that not only is the author or originator of a defamatory statement liable for it, but so also is any one who repeats it. Now at common law a newspaper is in no better position than any private individual; and therefore, apart from recent legislation, a paper which reported slanderous statements made at a public meeting could be sued for damages by the person whose reputation was injured by the slander. But the Libel Act of 1888 (R.S.O., c. 57, s. 7), holds an ægis over the newspaper press, and to some extent protects it. But to what extent? This was the question which arose in the recent case of *Kelly v. O'Malley*, perhaps better known as the "Star" libel case.

The facts can be briefly stated. Mr. Kelly was addressing a public meeting, his audience was not very well disposed towards him, and frequently interrupted his flow of oratory with remarks of a derogatory nature—of course the ubiquitous "Starman" was present taking notes. Now one characteristic feature of the new journalism is, that instead of reporting the speeches made at a meeting and

* The English law would seem to give riparian owners an easement of *reasonable diminution* not granted to non-riparian proprietors. See *Ormerod v. Todmorden*, 11 Q.B.D., 155; but cf. *contra*, *Miller v. Miller*, 9 P.St., 74; *Wheatley v. Chrisman*, 24 Pa.St., 298.

† There is no such easement of pollution, however. See *Blair v. Deekin*, W.N. (1887), 148.

‡ "It—viz., the right to deprive land of support—was the grant of a right to disturb the soil from below and to alter the position of the surface, and is analogous to the grant of a right to damage the surface by a right of way over it." Per Lord Wensleydale, *Rowbotham v. Wilson*, 8 H.L.C., 348, at p. 362.

"There is no claim of an easement unless you make it appear that the offensive smells had been used for twenty years to go over to the plaintiff's land." Per Lord Denman, C.J., *Flight v. Thomas*, 10 A. & E., 590.