

The bill further charges, that said company still continue to deposit the offcast of their ore beds below the said dam, along said run, and are now filling in the new channel of the said run, and raising the spoil banks higher, and extending it so as to back the water still deeper against said dam, said spoil bank being now about 15 feet high, and 25 perches long, and, that every rain carries down quantities of clay from said bank, to choke and impede the stream of said run; that unless the said company is compelled to desist from enlarging and extending said spoil bank, the backwater against said dam will become so deep, as to make it impossible to repair the same when such repairs become necessary, and that the value of complainant's property as a mill-seat will be entirely destroyed, as it has already been seriously diminished by what has already been done; that the complainant had frequently applied to Andrew Ellicott, the president of said company, and the said Bell, and requested them to desist from enlarging and extending said spoil bank, but said company refused to comply with said requests, and have threatened and intend still more to enlarge and extend the said spoil bank, pretending that they have a legal right so to do. The bill then prays, that said company, and their said agent and workmen may be restrained by injunction from depositing any earth, clay or other material, on the spoil bank aforesaid so as to enlarge or extend the same, and for general relief. An injunction was granted, and issued according to the prayer of the bill.

The joint answer of the defendants was filed on the 23d of June, 1848, and admits that the complainant is the owner of the mill and mill-dam in his bill charged: that the Covington Manufacturing Company are the owners of the land adjoining said mill, and have their ore-bank thereon, as is charged in said bill: that Ezekiel Bell, one of the defendants, has been and is employed in raising ore upon the said bank, that in so doing he has entirely filled and blocked up the original channel of the stream called Deep Run, and has placed thereon the spoil bank made by the offcast of the ore bank, and that he was employed in increasing and enlarging the said spoil bank, until restrained by the writ of injunction granted in this case.