

such user is evidence that the land from which the water is sent into the neighbors land has become the dominant tenement, having a right to the easement of so sending the water, and that such neighbor's land has become subject to the easement of receiving the water. But such user of the easement of sending on the water of an artificial stream is of itself alone no evidence that the land from which the water is sent has become subject to the servitude of being bound to send on the water to the land of the neighbor below. The enjoyment of the easement is of itself no evidence that the party enjoying it has become subject to the servitude of being bound to exercise the easement for the benefit of the neighbor." *Ib.* 758.

(3.) *Subterranean water not flowing in any ascertained channel.* Although a flowing stream may not be diverted or diminished, the owner of the land from which it starts may, it would seem, in some cases cut off its source. There seems to be no danger in granting that the owner of land may intercept all the rain which would otherwise fall upon his land and appropriate it to his own use. And yet if this be granted, then it must follow that he has a right to control the rain water after it reaches the ground, and for that purpose to build huge tanks, even though the result may be, in the case of a large owner, to cut off the supply of a stream, and so put an end to the usefulness of mills along its banks. And, *quære*, could the mill owners, by prescription, claim the right to prevent the land owner catching the rain? If so, they could stop him building a town, for the inhabitants would certainly use up the rain water. Where A, a land owner and a millowner who had for above sixty years enjoyed the use of a stream which was chiefly supplied by percolating underground water, lost the use of the stream after an adjoining owner had dug, on his own ground, an extensive well for the purpose of supplying water to the inhabitants of the district, many of whom had no title as land owners to the use of the water," it was held that A, the mill owner, had no cause of action. *Chasemore v. Richards*, 7 H. L. C. 349.