

File No. 25993 Continued.

See also *Western Maryland Railroad vs. Mott*, 110 Md. 554, where it is held that a party is not liable for causing a diversion of water running underground, unless such water was accustomed to flow in a fixed channel or in a uniform direction.

See also Note in 64 L. R. A. 225 and 10 *American English Annotated Cases* 843.

See also Section 980 of *Farnham*, where it is said:

"Water which is the result of rains or melting snow, when diffused over the face of the earth, is materially different from that which is flowing in a definite channel. While it is in this condition most of it will percolate into the soil or evaporate before it becomes united with sufficient other water to form a stream. In this form it is not of sufficient quantity to do material harm to the land upon which it falls, even if it is compelled to remain there. When two lots subject to water in this condition adjoin each other, as has been seen, neither has a right of drainage over the other and the owner of either may make any use of his property which he chooses regardless of the effects of his acts upon the surface water, so long as he does not collect it and cast it in a body on the other property. He may build upon his property, raise its grade, or pave it. And the fact that the lots are on a different level, so that there would be a natural flow of the water in its diffused state from one to the other, is immaterial. The owner of the lower one may, by improvements, prevent the water from flowing onto his property."

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