by the plaintiff and that he is entitled to recover, I should think an allowance at the rate of $200 per foot for the land actually taken would be ample.

Complaint is also made with reference to discharge of water in the winter time from the overhanging eave. I had this examined by a competent builder, approved by both parties, and he has suggested some changes. The defendants have agreed to make these changes; so that the complaint disappears.

At the trial complaint was made with reference to obstruction to light, and an amendment was allowed to permit this claim being set up. It appears that on the south side of the residence there are now some four or five windows, but at the time of the sale the only window to the south was a hall window. This window is just back of the steps marked on the plan; and, while there has been some interference with the light, I do not think that the window is rendered at all useless. No doubt, the tall wall of the building to the south interferes with the access of a a great deal of light, but light yet reaches this window in considerable quantity from the east.

The claim to light is based upon the implied grant arising from the existence of the window in the building at the time of the subdvision. This, I think, must be measured by the presumed intention of the parties at the time of the making of the grant. The wall of the house was some distance from the southerly boundary of the parcel conveyed, and I do not think it ought to be inferred that it was the intention of the grantor to sterilise the use of his own property for the purpose of permitting any greater access of light to the window than that which can be obtained over this strip.

The cases with reference to implied grant are, I think, gradually coming to indicate that this is the true way of looking at the matter, and the Courts are becoming less inclined to impute an intention to render useless the property retained by the grantor than in some of the earlier cases. Birmingham v. Ross, 38 Ch.D. 295, perhaps is the point of departure. The head-note states the principle accurately: "The maxim that a grantor shall not derogate does not entitle the grantee of a house to claim an easement of light to an extent inconsistent with the intention to be implied from the circumstances existing at the time of the grant and known to the grantee." See also Godwin v. Schweppes, [1902] 1 Ch. 926.

Even if I am wrong in this view, I think the plaintiff will not be entitled to an injunction, and that the case is one in which,