involved have given the courts since the ruling in *Langridge* v. *Levy* (*b*), the contracted scope of the arguments seems to amount to a sort of dereliction of duty.

Unsatisfactory as this case is, however, it marks the completion of an important stage in the development of this branch of law. As a deliberate judgment of the highest court of the Empire, it will not only operate as a final settlement of such questions as actually fall within its scope, but will have a considerable influence in determining the trend of judicial opinion with respect to points upon which it does not directly touch. The time seems not inopportune, therefore, for a survey of the whole subject which is dealt with in one of its phases by this decision. It will be convenient to assume, for the sake of simplicity, that we always have to do with persons whose exposure to the dangerous conditions which caused their injury occurred while they were in the exercise of some right which it is permissible, in the present connection, to describe as perfect. Such modifications as these principles may demand in any particular case, where the plaintiff's rights are of the inferior grade, denoted by the terms "mere licensee" and "volunteer," or "trespasser," can be readily supplied. It would be still more out of place in a general investigation, like the present, to take any account of the theory elaborated by Bowen, L.J., in *Thomas* v. *Quartermaine* (*c*), that the maxim, Volenti non fit injuria, operates by negativing the existence of a duty in regard to the persons who bring themselves within its terms.

III. The only available starting-point for an investigation which the decisions suggest seems to be the principle that an action for injuries resulting from negligence in respect to a subject-matter which is covered by a contract cannot, as a general rule, be maintained by one who is a stranger to that contract. The discussion upon which we are entering may, therefore, be appropriately opened with the statement that this principle has been recognized

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(*b*) 2 M. & W. (1837) 519.

(*c*) (1887) 18 Q.B.D. 625. The observations of Lord Esher in *Yarmouth* v. *France* (1887) 19 Q.B.D. 647 (pp. 652, 657) and of Lord Halsbury and Lord Herschell in *Smith* v. *Baker* (1891) A.C. 325 (pp. 336, 366) shew that this theory has by no means found such universal acceptance that it can be placed on the same footing as the doctrines respecting the position of one who is and of one who is not invited to enter on the premises or use a chattel.