

but Duff, J., with whom the Chief Justice concurred says that “the plaintiff is not entitled to prevent the defendants demolishing their part of the building merely because some part to which he has acquired a possessory title would thereby lose the support which it now receives . . . he is, I think, entitled to an order restraining the defendants from interfering with so much of the structure as rests upon that part of the soil itself to which he had acquired a possessory title.” This passage is somewhat difficult to understand, because the plaintiff, according to the judgment of the court, had acquired no possessory title to any part of the soil itself, but merely to a room overhanging the soil, and besides the learned judge seems inconsistent with himself as with one breath he declares the plaintiff is not entitled to something which he in the next breath proceeds to give him.

The Statute of Limitations by this method of construction is made to confer on squatters rights which rightful owners could not acquire. Broadly stated the proposition of law laid down by the Supreme Court is this, a squatter by ten years’ possession acquires not only a possessory title to the land he occupies, but also as against the true owner all easements necessary for its enjoyment. For instance, if in the present case the owners of the land also owned a vacant lot over which light came to the room in question, according to this case they might be restrained from building on that lot as it would interfere with the enjoyment of the room! Support is an easement just as much as light, and both are equally necessary to the enjoyment of the room—and yet under the statute 20 years would be necessary to give a rightful owner an easement of support from adjacent land, and an easement of light is not now acquirable by any length of enjoyment. We may remark that the land beneath the plaintiff’s room was quoad the plaintiff’s “land in the air” adjacent land. Why the statute should be construed in this elastic way in favour of squatters is not very apparent, unless it be that they are regarded by the Supreme Court as a meritorious class which deserves to be encouraged by the courts of law.