bare possession for a sufficient period of time, acquire a good title." At p. 749 he observes that so far as the right gained by prescription for ancient lights affords any analogy, it is in favour of the view that the right for the support of a house may be obtained without any actual acquiescence by the owners of the adjoining land.

Field, J., in supporting the same view, discussed very loudly the manner in which the right arises, saying, p. 756, "Whatever may be the correct view as to the origin of the right, all the authorities seem to agree that after 20 years' enjoyment, the right is acquired; in the one case, the view being that it arises from a presumption of origin by grant, to be made in each particular case, from long uninterrupted possession; in the other case, that it has become an universal settled rule of law that the open enjoyment uncontradicted and unexplained, is sufficient by itself, and that there is, in modern times, at least, no necessity for presuming, in each particular case, a thing which everybody knows is a mere fiction. That in any view the enjoyment must not be "clam" is clear; for to hold that a man is bound by a right of the growing acquisition of which he had neither knowledge, nor the means of knowledge, would be unjust and inequitable." He discusses the right, in connection with other rights of a more or less analogous character, dividing the authorities into four classes, according as they relate to (1) vertical or lateral support of land or buildings; (2) light and air; (3) water; (4) way or common, or rights of that nature. As to the first two classes, he deduces from the authorities the conclusion, that the *de facto* enjoyment is the origin of the respective rights. As to the third class, he says, p. 759, that cases of percolating water were greatly relied on, in the argument, as shewing that no right at all could exist in the case of support; one of the reasons given for not implying any grant in those cases being, that there could be no resistance on the part of the servient owner. But, he says, he conceives the principle which underlies all these cases to be that, until defined and confined, there is, in those cases, as in light and air in its natural state, no subject matter capable of being the subject of a lawful grant, nor from the very nature of them can there be any definite occupation or enjoyment. As to the fourth class, he says the distinction between such easements and the right to air and light and support, is, that the former are unlawful in their origin. The first of the acts is a trespass; whereas in the case of the latter, the acts are in themselves lawful acts, done in the lawful occupation and uses of a man's own land.

Manisty, J., at some length defends the view that the right to the lateral support for buildings from adjacent soil is not a right to an easement, but a right of property, but he says, no doubt for many years the right was considered and treated as a right to an easement, and consequently in order to maintain the right the fiction of a lost grant was resorted to.

Fry, J., in a lengthy judgment maintains that, in the matter of this right, as acquired otherwise than by actual contract between the parties, principle and authority are in direct opposition to one another; that on principle it might well be held that every man must build his own house upon his own land, and that he cannot look to support from the land of adjoining proprietors, for the only principle on which rights of the kind in question can be acquired is that of acquiescence, but he who cannot prevent cannot acquiesce; yet the authorities show that it has been decided that an ancient house does possess the right in question; that a new house does not possess this right; and consequently, that the right is one which may be acquired independently of express covenant.

Passing now to the Peers, Lord Selborne takes a view as to the point raised in the first