

that the letter of plaintiff's solicitor had been received and forwarded to defendants for instructions.

On 30th November defendants' solicitors wrote to plaintiff's solicitor: "We have received a letter from our clients this morning in which they state that the intention at present is to complete only the storey that they are now at, namely, the third storey."

Nothing further was heard of the matter until 23rd January, 1907, when the statement of claim was filed and served.

Meantime defendants did proceed to complete the third storey, and it is now a finished three-storey building.

The only dispute as to the condition of defendants' eastern wall is as to its height on the day when plaintiff and Mr. Baird visited it. Plaintiff's memory is quite at fault.

The difference of opinion is not material. The less there was then done, when the manifest intention of defendants was to complete a three-storey building, the more reason for plaintiff to act promptly if he desired to enforce his right by injunction.

Plaintiff could not at that time have thought that the wall of a three-storey building would be of any serious damage. The fact of plaintiff's purchase at the particular time when made, and of his vendor, Mr. Thorley, as mortgagee, making some complaint, gave some cause for the suspicion that the purchase was made, in part at least, with a view to making something out of defendants.

If I am wrong in the conclusion that plaintiff is not entitled to recover at all, there is still the question of whether he should get an injunction or only damages. He is not entitled in any event to an injunction. It is a case where damages, if any, "are small, capable of being estimated in money, and can be compensated for in money." It is also a case where it would be "oppressive to grant an injunction."

If plaintiff has a right to have light with no sensible diminution, and if that right has been invaded, so that damages must be assessed, even if only small or nominal—in other words, if there are to be damages in law necessarily arising from the obstruction, more or less, although no substantial damages by reason of any discomfort or inconvenience to the occupiers of the house, then such damages would be only in the supposed loss of rent. No evidence was specially directed to this point, but, considering the tenants who