Stein Lot was in the possession of Fite at the time of the sale to Cherry. But did the two lots belong to the same owners. It is incumbent on the Complainant to prove that fact inasmuch as the unity of ownership of these lots of ground is one of the chief facts upon which his case in this view of it rests. It is not required of the Defendants to shew that there was no such unity of ownership. The testimony of Fite states the character of the ownership of these two lots. It is true that objection was noted by the Commissioner to the Evidence of this Witness, but that objection was not renewed or argued before the Court and his testimony was commented on by the Solicitor for the Complainant. I must therefore regard it as in the case. Fite says that the two lots did not belong to the same owner that there was some persons interested in the one lot who were not interested in the other. The Bill filed by Cherry in the case in this Court of Cherry & others v Fite which is in Evidence in this case sets forth the title to Cherry's lot with much minuteness shewing that there are many persons interested in it who are all enumerated as the defendant in that case. Are the owners of the lot purchased by Stein, the same persons. The Complainant must prove that they are otherwise he fails to prove that the two lots belong to the same persons and therefore does not establish unity of ownership. I cannot find any sufficient proof of such ownership in the Evidence and therefore do not think that the law established in the dicta of cases referred to applies to this case. The principle upon which the decisions in those cases rests, viz that "no man can derogate from his own Deed" would not apply to this case unless it shewed or appear that the parties to the Deed of each lot were the same persons. But even if the Complainant in his Bill had sufficiently alleged that the two lots belonged to the same persons and that they sold the one to him, he has not alleged that they sold the other to the Defendants: there is no averment in the Bill that they hold under the same persons, who sold to the Complainant, nor is he in any manner connected with them. The only allegation in regard to them is that they are trespassing upon this adjoining lot and obstructing lights, without any averment that they claim to do so under any right or title derived from the parties who sold to the Complainant. This is deemed an indispensable averment to enable him the case on which he relies. Before referring to the above mentioned defects in the averments of the Bill I should in connection with the question of unity of ownership have taken notice of a fact mentioned by the Witness Fite. He says he was the agent in making the sale of all the owners of the lots, from which it might be supposed that it could that it could be fairly argued that he sold the two lots as the agent of the same owners. But this statement in regard to his agency must necessarily be explained and qualified by what he had just before said, in regard to the owners of these lots, viz that they did not both belong to the same owners, of course in selling one lot he could only do it as the agent of the owners of that particular lot and so in regard to the sale of the other lot in making it he could only act as the agent of the persons to whom it belonged. He would have spoken more properly if he had said that he was the agent of the different owners of the respective lots. For these reasons I do not think that the

Complainant is entitled to have this Injunction, continued upon the ground which has been mainly relied upon by his Solicitors in argument, viz: that he and the Defendants both bought from the same owners, these adjacent lots and that the defendants are obstructing lights which were in the house on this lot when he bought it. But even if the Complainant had alleged and proved the facts necessary to bring his case within the class of cases above referred to, I should question very seriously the wisdom and justice of applying the law as settled in those cases to one precisely like that before this Court. This lot at the intersection of Baltimore and Liberty streets stretching its length along the latter street, would naturally and very conveniently receive light for the Buildings upon it, from that street. The improvements on it for which light is claimed from the opposite quarter, are low, one story buildings very old and dilapidated. The subject of light from this adjoining lot through these openings does not appear from any Evidence in the cause to have been mentioned by any of the parties during the negotiations for the purchase. Now as the right to the light and air through the windows existing on the Buildings at the time of the grant, where the grantor owns the adjoining vacant lot, is founded upon the doctrine of presumption, and in the argument of this case has been expressly rested upon that ground and as every presumption is liable to be rebutted by facts & circumstances which shew that the presumption relied upon is unreasonable and not Easily reconciled with the ordinary intelligence and common sense in the party to be affected by it, it may be insisted in this case that it would be a most unreasonable and violent presumption to suppose that the grantors of Cherry's lot, supposing them to be the owners of the other lot intended to grant the privilege to him to keep open these windows in these old buildings and thus prevent the advantageous improvement of their adjoining lot and thereby necessarily impair its value in a very great degree. It seems to me that nothing could resist the force of these considerations in a case like this Except the fact in proof that such a privilege had been the subject of express stipulation and had formed a part of the consideration paid for the premises. In regard to the right to the use of the one window which appears to have been in use for more than 20 years and which is claimed upon the ground of its prescription. If this Court should prohibit the closing of this window by continuing this Injunction it would so far as the authority of this Court could extend be establishing the doctrine of ancient lights in this City. As Chancellor Kent in his Commentaries 3 Vol p 448 "this doctrine "is not relished in this Country owing to the rapid changes and improvements in our Cities and Villages," and the Sup Court of New York in Parker v Foote 19 Wendall 318, has declared that "it is not applicable to the condition of the Cities and Villages in this Country" and though there is no decision of our Court of Appeals in which this question has been raised and which can be regarded as settling it but there is one of a Court in this State entitled to great respect. This very question was presented to the late ~~Court~~ Baltimore County Court upon an Injunction granted in the case of Smith v White and argued with great ability. That Court fully adopted the views of the Sup Court