

being carried on to B.'s land without any fault of A., as, for instance, by the action of the wind : and would not authorize an entrance upon another's land to pick fruit growing over it, in consequence of the owner of the tree having suffered its branches to extend over his neighbour's land. On the other hand, so long as A.'s branches remain overhanging B.'s land, it may be argued that they do so by the sufferance of B., and A cannot be charged with negligence in permitting him to do so, and that A. is just as much justified in law in going on B.'s land to secure his property which is hanging above it as he is in going to secure that which has fallen upon it. We have not, however, met with any case where that point has been actually determined. The popular notion that fruit belongs to the person whose property it overhangs, even though the tree or vine which bears it belongs to his neighbour, seems to be clearly ill-founded in law.

In the case of *Lemmon v. Webb*, it has also been decided that the owner of a tree overhanging or growing into his neighbour's land cannot acquire any easement in respect of such tree over or upon the adjoining land, over or into which its branches or roots extend ; and that time cannot bar the right of the owner of the adjoining property to abate the nuisance whenever he sees fit ; but if he take the law into his own hands, as he may, it will be well for him to notify his neighbour beforehand of his intention so to do, though it is not absolutely necessary that he should ; but, if he do not, the court may mark its sense of his unneighbourly conduct (as it did in *Lemmon v. Webb*) by refusing to give him costs, even though his neighbour fails in his action against him for damages for cutting the tree. It is also very necessary for him to be extremely careful, in cutting off the overhanging branches, not to go beyond the point where they overhang ; and, furthermore, he must remember that though he may cut off the overhanging branches, together with the fruit growing on them, yet when they are cut off the branches and fruit are still the property of his neighbour, and if he convert them to his own use he is liable to an action for so doing.

It will also be useful to remember that if we suffer a poisonous tree growing on our land to extend its branches beyond our boundaries, we may be liable for the damage which may result to our neighbour's cattle from eating thereof : *Crowhurst v. Amer-sham Burial Board*, 4 Ex.D. 5 ; but, in the absence of any inten-