

vol. 30, p. 353, and *ante* p. 41). Through the persistence of the litigants we have now a deliverance of the House of Lords on the point in controversy, namely, the right of the owner of land to lop the boughs of his neighbour's trees which overhang his land, notwithstanding they have been growing for over twenty years. Their lordships (Lords Herschell, L.C., and Macnaghten and Davey) have affirmed the decision of the Court of Appeal, (1894) 3 Ch. 1, that the owner of the land overhung by the trees has the right to abate the nuisance by cutting the offending branches, and that this right is not lost by reason of the trees having been overhanging for over twenty years; and, moreover, that he has the right so to cut the branches without notice to the owner of the trees, provided he can do so without going on his neighbour's land.

MORTGAGE—PURCHASE OF EQUITY OF REDEMPTION—MERGER—TRANSFER OF
MORTGAGE TO OWNER OF EQUITY OF REDEMPTION—INTENTION TO KEEP
SECURITY ALIVE.

In *Thorne v. Cann*, (1895) A.C. 11; 11 R. Feb. 15, the House of Lords (Lords Herschell, L.C., and Watson and Macnaghten) have practically arrived at the same conclusion as was reached on a similar point by the Ontario Court of Appeal in *Hart v. McQuesten*, 23 Gr. 133. The question was whether an owner of the equity of redemption, who had paid off a mortgage and taken an assignment thereof, was entitled to keep it alive as against a subsequent mortgagee, where the documents and circumstances showed that such was his intention in taking the assignment. The House of Lords held that he was. In *Hart v. McQuesten* the question was whether a mortgagee of the legal estate who had taken a release of the equity of redemption expressed to be made in consideration of the amount due under the mortgage had thereby merged his security as against a subsequent mortgagee; the Court of Appeal held that he had not, although Blake, V.C., the judge of first instance, and Strong, J.A., in the Court of Appeal, were of the contrary opinion.

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Hanfstaengl v. Baines, (1895) A.C. 20; 11 R. Feb. 36, is a decision of the House of Lords (Lords Herschell, L.C., Watson, Ashbourne, Macnaghten, and Shand), affirming the decision of