

CHANCERY DIVISION.

LONDON, July 25, 1894.

*In re HYSLOP. HYSLOP v. CHAMBERLAIN. (29 L. J.)**Executor—Debt—Appointment of debtor as executor—Incomplete gift.*

This was an adjourned summons, raising the question whether the defendant, the Rev. H. H. Chamberlain, was accountable to the estate of the testator for a debt of £100.

The testator, by his will, dated October 10, 1889, appointed his brother-in-law (the defendant Chamberlain) and his sister (the plaintiff) his executors. He gave to his brother-in-law £500 in consideration of his undertaking to be 'my executor and carrying out my instructions and wishes to the best of his ability.' The testator died in May, 1891.

The defendant Chamberlain owed the testator £100. A letter of instructions, written by the testator (addressed to the defendant Chamberlain), was found, after his death, with his will, in a box, which letter contained the following sentence: 'The hundred pounds I lent you does not form part of the money I left you; it is cancelled.'

This document was not communicated to the defendant Chamberlain during the lifetime of the testator.

North, J., considered that the letter of instructions was a testamentary document, not duly executed; and that it was not admissible in evidence. He, therefore, held that the defendant Chamberlain was accountable to the estate for the £100.

OVERHANGING TREES.

The right of an owner of land to cut away the boughs of his neighbour's tree which overhang his land has been the law for centuries, as appears from such venerable authorities as 'Brooke's Abridgement Nuisance,' p. 28, and 'Viner's Abridgement, Trees E,' and the Court of Appeal, in the recent case of *Lemmon v. Webb*, 63 Law J. Rep. Chanc. 570, showed little appreciation of the argument that his right could be taken away by the acquisition of an easement by the tree-owner compelling the landowner after the lapse of years to submit to the gradually increasing invasion on the very imperfect analogy of the acquisition of an easement in respect of an overhanging structure of bricks and mortar. What is true of overhanging boughs is, as the case