

croachment of the water; but that he cannot alter its course, to throw it upon his neighbour's ground. *Answered*, Betwixt the branch in question and the main body of the river, there is three quarters of a mile of waste ground, and the bulwark can have no other effect, than to remove the channel a little nearer the main river, as the branch in question did run a few years before. THE LORDS found, that the proprietor, for defence of his grounds, had right to build the bulwark projecting into the channel of the river, not exceeding 30 feet, upon his giving bond with a cautioner, acted in the books of session, to indemnify his party from all damages which shall arise to his land on the opposite side of the river, by occasion of building the said bulwark, at any time within ten years after completing of the same. See APPENDIX.

No 12.

*Fol. Dic. v. 2. p. 273.*

1738. July 28. TOWN OF NAIRN against BRODIE, LORD LYON.

No 13.

THE river of Nairn, which runs into the sea through the property of the Town of Nairn, and at the mouth of which the Town had a stell fishing, having, upon a sudden speat, changed its course, and made a new channel for itself through the Lord Lyon's lands, the point of right came to be tried before the Lords, whether the Town of Nairn had right, by means of a bulwark, built within their own ground, to bring back the river to its former channel. It was *argued*, That a public river, having, of itself, changed its course, it cannot be brought back by any party pretending prejudice by the change, because such river is not the private property of any person. In *answer*, The case was figured of a harbour deserted by a river; but then a harbour is a private property, and he who has right to the end has right to the means. Upon a division it carried, that the Town of Nairn had right to build the bulwark. See APPENDIX.

*Fol. Dic. v. 2. p. 274.*

1741. June 25. FARQUHARSON against FARQUHARSON.

No 14.

It was found lawful for one to build a fence upon his own ground, by the side of a river, to prevent damage to his ground by the overflow of the river, though thereby a damage should happen to his neighbour by throwing the whole overflow in time of flood upon his ground. But it was found not lawful to use any operation in the *alveus*.

Whether lawful to make a fence against a river, though thereby a damage arise to another?

*Kilkerran, (PROPERTY.) No 1. p. 452.*