

1728.

GORDON
v.
MURRAY.

ALEXANDER DUKE of GORDON, and
ELIZABETH DUTCHESS DOWAGER
of GORDON, } *Appellants* ;
CHARLES EARL of MURRAY *et alii*, *Respondents*.

16th April 1728.

SALMON FISHING.

No. 3. THE question here related to the boundaries by which the rights of the parties to certain salmon fishings in the river Spey and on the sea shore were limited, and to the modes in which they were entitled to exercise these rights ; but as the point fell to be decided by the titles of the parties, by the possession which they had enjoyed, and by certain transactions which had been entered into between their authors and predecessors, no general question of law was involved in the decision.

Entered
5th February,
1728.

The appeal was brought from “ several interlocutors of the 16th of February 1727, and the day of the same February affirming the same ; the 14th of July 1727, and the day of the same July affirming the same,” &c.

Judgment
April 16.

After hearing counsel, “ it is ordered and adjudged, &c. that the said interlocutory sentence of the 16th February 1727, and the affirmance thereof be varied, and do stand in the words following :—‘ That the said Earl of Murray, and other the respondents above mentioned, have the exclusive right of fishing in the channel of the

1728.

GORDON

v.

MURRAY.

‘ water of Spey, downwards to the place where
 ‘ the line which the sea makes upon the coast cuts
 ‘ the river at high water ; and that they have not
 ‘ right to fish below that line ; and that the ap-
 ‘ pellants, the Duke of Gordon, and the Duchess
 ‘ Dowager of Gordon, have the exclusive right
 ‘ of fishing with the tug-net from and below the
 ‘ said line to the sea ; and that they have not
 ‘ right to fish above that line ; reserving to the
 ‘ said Sir James Suttie, as now in the right of the
 ‘ said fishings upon the said river, which belonged
 ‘ to the Earl of Dunfermline, the said earl his
 ‘ right of tug-net fishing on the west side of the
 ‘ said water of Spey, conform to his former pos-
 ‘ session :’ And it is hereby also ordered and
 “ adjudged, that the said interlocutor of the 14th
 “ July 1727, and the affirmance thereof, the 21st
 “ of the same month, be, and are hereby affirmed.”

For Appellants, *C. Talbot* and *C. Erskine*.

For Respondents, *P. Yorke*, *Dun. Forbes*, *Ro. Dundas*.