on to the edge of the lake. As the water receded, there would, of course, be a slip of land between the lake and what was its former margin; the water has now receded farther, and that piece of land is larger than before.

"It is impossible to consider it as the meaning of the parties to the excambion, that the boundary of the appellant's property was to be continually changing as the lake receded or otherwise. The consequence of the lake being the boundary, was, that the property must have extended to the lake, and as the rights to the lake belong to the parties only as pertinents to their adjacent lands, it does appear to me, upon the whole, that the original interlocutors of the Lord Ordinary in this case were right, and that the subsequent interlocutors of the Court were wrong. But I move the further adjournment of the cause, in order to consider of the terms of the judgment."

(On 5th July 1815, his Lordship recapitulated some of his former observations, and then moved the reversal of the interlocutors complained of as below).

It was ordered and adjudged that the several interlocutors complained of in the said appeal be, and the same are hereby reversed. And the Lords find and declare that each party's interest in the loch does extend *ex adverso* of his own lands from the shore to the middle of the loch, and that each party may dig marle within his own division; and that the appellant's land on the shore of the loch extends from *Essenside Burn*, the march of *Castleside* and *Essenside*, to a line drawn from the march stone at the foot of Castleside Hill to the loch, including the lands acquired by Thomas Wilkinson by the excambion with James Shortreed, referred to in the pleadings. And it is ordered that the cause be remitted back to the Court of Session to proceed accordingly.

For the Appellant, *Mat. Ross, Thos. W. Baird.*

For the Respondent, *Sir Saml. Romilly, John Clerk, George Cranstoun, John Fullerton.*

NOTE.—Unreported in the Court of Session.

Dr THOMAS HAY, Edinburgh, . . *Appellant;*

JAMES SCOTT and JOHN REID, Merchants, Leith, and ROBERT BURN, Architect, Trustees of ROBERT INGLIS, Builder, } *Respondents.*

1816.

HAY
v.
SCOTT, &c.

House of Lords, 21st February 1816.

BUILDING CONTRACT—EXTRA CHARGES—Circumstances in which in a building contract, extra charges were sustained.

This was an action raised by the trustees on Inglis' bankrupt estate for £1612 due to the bankrupt, under a building contract with the appellant, whereby Inglis built him several houses in Blair Street, Edinburgh.

The question turned upon the particular facts; and, *inter alia*, the amount of extra charges made, in which, after having allowed a proof, the Court finally decerned against the appellant for £769.

He took these interlocutors by appeal to the House of Lords, and that House affirmed the judgment of the Court below, with £100 costs.

For the Appellant, *Wm. Adam, Fra. Horner, Andrew Rutherfurd.*

For the Respondents, *Sir Saml. Romilly, John Tawse.*

1816.

RICHAN
v.
STOVE, &c.

WILLIAM RICHAN, Esq. of Rapness, . *Appellant;*

ROBERT STOVE of Windbreck, in the county of Orkney, and ALEXANDER GUILD, Writer in Edinburgh, his Agent in the Court of Session, ... *Respondents.*

House of Lords, 21st February 1816.

PROPERTY—UDAL TENURE—SEA WARE—KELP—PRESCRIPTIVE POSSESSION—A party was held entitled to cut tangle, also to sea-ware, pasturage, and kelp, as immemorially possessed by him, though his property was at a distance from the shore, and though he could produce no written title—the tenure being udal.

The appellant raised an action of declarator before the Court of Session, concluding that it should be found that he had sole and exclusive right and title to the whole shores of the lands of Braebuster, and to the whole kelp, ware, or tang growing thereupon, and in the sea opposite thereto: and also to the whole kelp and other ware thrown in by the sea on the sea shores, in all time coming; and that it should be found that he had good right and title to exclude and debar the respondent and all others, proprietors and possessors of the one farthing land of Windbreck, at present possessed by him,