

No. 41. HUGH ROBERT DUFF, Esq. Appellant.—*A. Connel—J. Tait,*

JAMES GRANT, Esq. Respondent.—*Mackenzie—R. Grant.*

June 9. 1824.

2D DIVISION.
Lord Pitmilly.

THIS was a question, whether a small piece of ground, called the Kilnhead or Kilnlead, belonged to the appellant or the respondent, the decision of which depended upon the terms of their titles. Duff having brought an action for having it found that it belonged to him, the Lord Ordinary assoilzied Grant, and to this judgment the Court adhered on the 21st June 1822.* Duff then entered an appeal; but the House of Lords 'ordered and adjudged, that the appeal be dismissed, and the interlocutors complained of affirmed, with L. 150 costs.'

J. CHALMER—SPOTTISWOODE and ROBERTSON,—Solicitors.

(*Ap. Ca. No. 54.*)

No. 42. DAVID GORDON, Appellant.—*Solicitor-General Wetherell—Shadwell.*

WILLIAM HUGHES, and WILLIAM M'CURDO DUNBAR, Respondents.—*Hart—Pemberton.*

Appropriation—Repetition.—A debtor having ordered a Company to hold funds, to be remitted to them for behoof of his creditor, and the Company having agreed to do so by a letter to the creditor; and money having been remitted to them, but they having thereafter per incuriam paid it to the debtor; and after consulting a law adviser, having paid it a second time to the creditor;—Held, (reversing the judgment of the Court of Session), That the Company was not entitled to repetition from the creditor.

June 11. 1824.

2D DIVISION.
Late Lord
Newton, and
Lord
Bannatyne.

MAXWELL HYSLOP resided, for some time prior to 1805, with his brother-in-law, David Gordon, the appellant, who was settled as a merchant in the city of New York, and became indebted to him for advances, on his individual account, to the extent of about L. 500. Having formed a partnership with his brother, Wellwood Hyslop, who was a merchant in Jamaica, to which place Maxwell intended to proceed; and having right to certain funds, forming his share of the succession of his father, who had died in Scotland, he proposed, before his departure from

* See 1. Shaw and Ballantine, No. 565.