under the marriage-contract trust, but, on the other hand, the children will on the death of their mother receive either the estate or its equivalent in money, free from the liferent of their father. The claim of the marriage-contract trustees must therefore be repelled."

Counsel for Mrs Ross—Lord Advocate (Watson) —Kinnear—J. J. Reid. Agents—J. & J. Ross, W.S.

Counsel for Mr Gibson's Trustees—M'Laren —Asher. Agents—Morton, Neilson, & Smart, W.S.

Counsel for Mr and Mrs Ross' Marriage-Contract Trustees—Crichton. Agent—Graham Binny, W.S.

Counsel for Mrs Ross' Pupil Children and their *curator ad litem*—Maclean. Agents—Melville & Lindesay, W.S.

HOUSE OF LORDS.

Friday, June 29.

LADY GRAY *v.* RICHARDSON AND OTHERS.

(*Ante*, vol. xiii. p. 230.)

Property—Title—Salmon Fishing.

A and B were coterminous proprietors of lands situated on the river Tay. The description in A's titles was "All and haill the just and equal sunnie half of all and haill the lands of I. . . . as the same is presentlie occupyed and possessed by A. P. . . with the just and equal half of the salmond fishings and others fishings of the saidis lands of I." The description in B's titles was —"All and haill the quarter or fourth part of the town and lands of I. . . . . last occupyet be J. B., and now by myself," as also "the other quarter or fourth pairt of all and haill the said town and landis of I., . . presentlie possesset by G. L., my tenant, . . together with the just and equal half of the salmond fishings and other fishings of the saidis lands of I." Prior to 1795 the whole lands of I. were held by the predecessors of A. and B. in alternate lots or kavels, and each proprietor possessed the salmon fishing *ex adverso* of his respective kavels. In 1795, by decreet-arbitral, the kavels were done away with, and the lands of I. were divided into two continuous parts, the one to belong to A. and the other to B. By this decreet the salmon fishings were reserved to the parties "according to their present boundaries." *Held* that A and B had each an absolute right of property in the salmon fishings not *ex adverso* of their lands, but as reserved by the decreet-arbitral, and defined by possession.

Salmon Fishing—Crown Charter.

Circumstances in which *held* that a Crown grant in favour of a proprietor of the salmon fishings *ex adverso* of certain lands which he had acquired by excambion was inoperative, the said fishings having been formerly granted to the party with whom the contract of excambion had been carried out, the fishing not having been dealt with in the excambion, and the Crown having had no possession adverse to that of the original granters.

This was an action at the instance of the Right Honourable Baroness Gray of Gray and Kinfauns, against Sir John Stewart Richardson of Pitfour, Baronet, and Mrs Fleming of Inchyra, and her husband the Reverend Archibald Fleming, as her administrator-in-law, and for his interest. The summons concluded for declarator that the pursuer had the exclusive right of salmon fishing in the Tay *ex adverso* of part of the estate of Pitfour, the property of Sir John Richardson, but which at one time had formed part of the estate of Inchyra.

The facts are fully narrated in the report of the case in the Court of Session, *ante*, vol. xiii. p. 230.

The First Division gave judgment in favour of the pursuer, and the defenders appealed to the House of Lords.

At giving judgment—

Lord Chancellor—My Lords, this case was argued at your Lordships' bar some time since, and at the close of the very elaborate argument your Lordships did not, I think, entertain any doubt that the judgment of the Court of Session in Scotland, which was a unanimous judgment in favour of the respondents, ought to be affirmed. My Lords, the case was one of considerable intricacy and minuteness. In regard to the details of the title, and in regard to the evidence of user under that title, I have been prepared to express to your Lordships the reasons for the opinion which, so far as I am concerned, I have formed in the case, but having had the advantage of reading the observations which your Lordships will hear presently from my noble and learned friend on my left (Lord Blackburn), I have thought it better not to occupy the ground which he will be prepared so much better to cover, but simply to state to your Lordships that I shall move your Lordships that the judgment of the Court below be affirmed, and the appeal dismissed, with costs.

Lord Blackburn—My Lords, these two appeals, which were exhaustively argued at your Lordships' bar on the 17th, 19th, 20th, 23d, and 24th of April last, are both against the same interlocutor of the First Division of the Court of Session, but they are by different appellants, on different, and indeed hostile, grounds.

On the trial a great many documents were put in evidence, and a great mass of parole evidence was given on behalf of the three parties. Your Lordships have before you the very learned and elaborate judgment of the Lord Ordinary and of the four Lords of the First Division, and it is, in consequence, not necessary to state the case in such detail as it would be if without that advantage you had to dispose of the case in the first instance.

The questions raised are as to the right of salmon fishing *ex adverso* of a piece of land on the north side of the Tay. The matter will be better understood by reference to the first of the plans, which is an Ordnance map with several lines and letters on it.

The Ordnance map itself shows the configuration of the land as it has been since the year 1826

and now is, but some operations commenced in 1807 and completed in 1826 have turned what at the beginning of this century was part of the *alveus* of the Tay into dry land, and altered the configuration of the shore of the Tay there. It appears clearly that at the beginning of the century the north bank of the Tay followed the line marked on the Ordnance map in process with the letters Q A R, which line is now considerably inland, and that there was an island called Cairnie Island then separated from the north bank of the Tay by a shallow strait. The operations alluded to first caused this strait to silt up, and then (by an embankment marked on the map with the letters S C Q) shut out the Tay from the strait and its mouth, and converted Cairnie Island into a portion of the mainland, as it now is, and has been for more than forty years before the action. The precise position of the extreme west end of Cairnie Island before 1826 does not appear to have been very clearly determined by the evidence, except that it was near to or perhaps a little to the eastward of a line drawn through the points marked A B C.

The summons of the pursuer, signetted 17th February 1874, asks for a declaration that Lady Gray has "the sole and exclusive right of salmon fishing *ex adverso* of that piece of land formerly called the Meadow Pows or Powlands of Inchyra" (the frontage on the old bank of the Tay of the piece of land meant by this description is indicated on the Ordnance map in process by the letters Q A B), or, in the alternative, that she has "the sole and exclusive right to the salmon fishing in the river Tay *ex adverso* of the westmost portion of the said piece of ground formerly called the Meadow Pows or Powlands of Inchyra, extending 120 yards or thereby eastwards from the marsh between the said piece of ground (now part of the lands of Cairnie) and the lands of Inchyra," and asks that her rights should be found and declared accordingly, and that Sir John Richardson and Mrs Fleming respectively should be interdicted from interfering with her right so found.

The First Division, by their interlocutor, which altered that of the Lord Ordinary, find and declare that the pursuer has the sole and exclusive right of salmon fishing in the river Tay *ex adverso* of that piece of land called the Pows which lies to the westward of the stone indicated by the letter C on the Ordnance map. This gives Lady Gray part of what she asked for, but not the whole.

She has not appealed, and consequently your Lordships have only to inquire whether Lady Gray has got too much, no question being raised before this house as to whether or not she has got too little.

One main point raised by the appeal of Mrs Fleming is that she (Mrs Fleming) is solely entitled to the salmon fishing *ex adverso* of that piece of land marked Q C on the map. If this is made out, Lady Gray's right is negatived, and Sir John Richardson will have the benefit of it; but Sir John Richardson's ground of appeal is that he is solely and exclusively entitled to the salmon fishings *ex adverso* of the *locus in quo* as against both Lady Gray and Mrs Fleming.

It is more convenient to dispose of this last contention first. Sir John has the lands of Cairnie by an old title. The earliest title-deed which he produces is the charter of confirmation by the Earl of Rothes to John Hay of Pitfour in 1706. That charter comprises the lands of Cairduy—"Una cum piscariis salmonum aliorumque piscium in aqua de Tay usitat et consuent ad predict. terras fulmen."

He has also a modern grant in 1873 from the Commissioners of Her Majesty's Woods and Forests of the salmon fishings *ex adverso* the frontage of what was formerly called Pows Meadows. But this modern grant contains an express stipulation (which would be implied if not expressed) that it shall in no way prejudice the right of any person who can produce a valid and effectual title prior in point of time.

The pursuer Lady Gray and Mrs Fleming (who on this part of the case make common cause) produce a Crown charter of 1647 to Sir Thomas Blair, comprising much property, and containing this clause—"Ac totas et integras terras de Inchirref cum molendino earundem terris molendinariis multuris et sequelis solit et consuet cum piscariis salmonum et aliis piscariis dict. terrarum de Inchirref." This was followed by infeftment; and they shew by a series of documents that this title to the salmon fishings of the whole lands of Inchyra, which had belonged to Sir Thomas Blair, has now passed to Lady Gray and Mrs Fleming; whether it is vested in them *pro indiviso* as tenants in common or in separate lots, and what lots belong to each of them respectively, are questions, but there is no question that Sir Thomas Blair is their author, and that they have between them got the title to the salmon fishings of Inchyra such as Sir Thomas had therein.

Sir John Richardson and his authors have always fished the fishings of Cairnie, but he has wholly failed to show any such user of the fishing *ex adverso* of the *locus in quo* as would extend his fishing of Cairnie so as to include it.

The question on this first appeal is therefore reduced to this, whether the Powlands were part of the lands of Inchyra at the date of the Crown charter of 1647? If not, the modern grant of 1873 gives Sir John a title to the salmon fishing. If it was part of Inchyra, that modern grant is inoperative.

As to this, it seems as clearly made out as any such thing possibly can be, that until a decreet-arbitral executed in April 1745 the lands then called the Powlands of Inchyra were held by Margaret Blair, by marriage Lady Gray, who was the author of Margaret Lady Gray, the present pursuer, as the eastermost kavel of the lands of Inchyra. The laboured lands of Inchyra were at that time certainly occupied severally by Margaret Blair (Lady Gray) and by the authors of Mrs Fleming in alternate kavels (whether as in title joint owners though occupying in severalty is a question on the second appeal). The decreet-arbitral to which I have referred was made by virtue of a submission between the said Lady Gray and James Hay of Pitfour (the author of Sir John Richardson) for the purpose of straightening marches. It was under it that the lairds of Pitfour first acquired the Powlands, long after they had acquired Cairnie and the salmon fishings thereof. And though under this decreet they acquired and have ever since held the lands of Powlands, there was nothing to give them any title to the salmon fishing *ex adverso* the Powlands, which remained in title as before, and there has

been no possession proved which could extend any other title of Pitfour so as to embrace those fishings.

My Lords, I think it very clear that Sir John Richardson has failed in showing any title to himself in this fishing.

The questions raised by the other appeal are different. One depends on the true construction and effect of the titles by which it is shown that the title to the salmon fishing, which had as an undivided whole belonged to Sir Thomas Blair, became vested in the pursuer and Mrs Fleming, and the effect upon this of the various contracts and documents given in proof. The latest in point of date, and the most important, is a decreet-arbitral dated in November 1795, between William Lord Gray and John Anderson Esquire, the author of the respondent Mrs Fleming. The pursuer Lady Gray claims as heiress of entail in possession under a tailzie granted by this William Lord Gray in 1796, after the date of that decreet-arbitral.

The part of this decreet-arbitral relating to the salmon fishings is as follows:—"We find that the lowest or eastmost fishing belongs to Lord Gray, and is altogether opposite to the lands of Pitfour, being bounded to the west by the old march-stone between the lands of Pitfour and Inchyra, which we ordered to be marked No. 1; that the several fishings between the stones No. 1 and No. 2, Nos. 3 and 4, Nos. 7 and 8, Nos. 9 and 10, 11 and 12, 13 and 14, and 15 and 16, being seven in number, do all belong to the said John Anderson. The stone No. 16 stands in the march between the lands of Inchyra and Ribney. That the several fishings between the stones Nos. 2 and 3, Nos. 4 and 5, Nos. 6 and 7, Nos. 8 and 9, No. 10 and 11, Nos. 12 and 13, Nos. 14 and 15, being also seven in number (besides the fishing opposite to the estate of Pitfour) do all belong to Lord Gray, and that the fishing between the stones Nos. 5 and 6, called Hurle Carle, is the joint property of Lord Gray and Mr Anderson, and in terms of the said submission we do hereby declare that the said fishings respectively belonging to each of the said parties shall not be hurt or affected by the division now made of the lands, but that the said fishings shall be enjoyed and possessed according to the rights, customs, and usages heretofore observed by the said parties, their authors and predecessors."

My Lords, had William Lord Gray in 1796 raised a summons against Mr Anderson, the author of Mrs Fleming, to the same effect as that now raised by Lady Gray in 1874, there could at that time have been no difficulty in applying this description to the land, and determining what was meant both by "the lowest or eastermost fishing which is altogether opposite to the lands of Pitfour," which the arbiters declare to belong to Lord Gray, and what was "the old march-stone between the lands of Pitfour and Inchyra," which they ordered to be marked No. 1, as the west boundary of that fishing. Unfortunately, nearly eighty years have been allowed to elapse, and there is a controversy of fact as to both these questions. There is no dispute that during all that period Mrs Fleming and her authors have possessed as a separate possession the fishing called the Hen, and that is the fishing described in the decreet-arbitral as the fishing between the stones numbered 1 and 2; and that Lady Gray and her predecessors have during all that time possessed as a several fishing that called the Glove, and that it is the fishery described as that between the stones numbered 2 and 3. The controversy, which must be determined by the evidence, is, what is the eastern boundary of the Hen fishing?

Lady Gray contended that "the lowest or eastermost fishing altogether opposite the lands of Pitfour," was the fishing *ex adverso* the Powlands, beginning at the point marked 2 on the Ordnance map, and continuing down till it met the Cairnie fishing on the east. And that the march-stone, which the arbiters ordered to be marked 1, is a fifth stone, lying in the same line with the fourbound-stones, marked on the Ordnance map B S, but which, being covered with silt, was not seen by those who made the Ordnance survey, and is not marked on the map. It is, however, clearly proved that such a stone lies nearly at the spot marked 2, and has on one side of it what may either be a Roman 1 or a capital I.

The contention on behalf of Mrs Fleming was that the bound-stone which was ordered to be marked 1 was an old stone standing at the point A, which stone has on the west side of it a letter I, and on the east side a letter P, and that the eastermost fishing belonging to Lord Gray must have been the fishing below that stone A, principally in the strait between Cairnie Island and the north bank of the Tay (where the right to fish would be almost illusory), but possibly embracing some space of open water above the westmost point of Cairnie Island. The pursuer's theory was that this stone at A was never a bound-stone between the lands of Pitfour and Inchyra, but that it had at some unknown period, probably before the excambion which joined the Powland to Pitfour, been put up as a fishing bound-stone to indicate the line of division between the fishings of Inchyra and Pitfour.

On this question of fact the Lord Ordinary found entirely in favour of Lady Gray, and all the four Judges in the First Division agreed with him. I should not lightly differ on a question of fact from the Judge who tried the case and saw the witnesses give their evidence. I have, however, examined the evidence for myself. It would be tedious, and I do not think it would answer any good purpose, to discuss it in detail, but I am bound to add, that if I had had to decide this case in the first instance on the evidence before us, I should have come to the same conclusion as the Court below. And such, I believe, was the opinion of every noble and learned Lord who heard the argument.

It was not alleged that Lady Gray or her predecessors had at any time subsequent to 1794 actually fished between the eastern boundary of the Hen and the western boundary of the Pitfour fishings; and it was contended on behalf of Mrs Fleming that for forty years and upwards she and her authors had fished as part of the Hen fishing *ex adverso* the land as far eastwards as the line A B C, and consequently it was contended on her behalf that whatever might have been the boundary in 1794 the Hen fishery had been by prescription extended down to the point C.

The Lord Ordinary found that such user was not established in fact, and all four Judges in the First Division agreed with him. Lord Mure expressed a doubt whether (if it had been proved in fact) Mrs Fleming could have availed herself of it to extend her boundary beyond that fixed by

the deed on which she was obliged to found to show that she had a divided fishery at all, but as in the opinion of all the Judges the defence failed in fact, it was unnecessary for him, and it is unnecessary for your Lordships if you agree as to the fact, to form an opinion on this point of law.

My Lords, at your Lordships' bar the counsel discussed the evidence on this question minutely. I think it was sufficiently shown that from the time when some alterations were made by the Commissioners for the navigation of the Tay, and the stones and gravel were removed, and the fishing which had before that time been from cairns, was carried on from the shore, the tenants of the Hen fishery had fished down to the point C, but that alteration was in 1843, about thirty or thirty-one years, and not more, before the raising of the summons. During the earlier period which would be required to make up the forty years, viz., between the years 1834 and 1843, the fishing was, it is agreed, from cairns now removed. Very many old witnesses were called by all three parties to prove from memory what the then position of the cairns was, and, as every person conversant with such inquiries would anticipate, there was much discrepancy between them. The counsel for Mrs Fleming was able to read the testimony of several witnesses which, taken alone, would have established her case; it would have been strange if he had not been able to do so. The counsel for Lady Gray was able to read the testimony of several witnesses which, taken alone, would have established the contrary. On such a conflict of testimony the finding of the Judge who saw the witnesses and their demeanour ought to have great weight. Forming my judgment independently, I come to the same conclusion as he did, on the ground stated by Lord Deas, where he says—"To have the effect contended for, the proof of possession would require by our ('Scotch') law to be clear and unequivocal for the complete period of forty years; I think it is not proved to be so." If it were necessary, I should find as a fact that at least in the period before 1838, when the cairn was put back nearer to the high-water mark, the tenants of the Hen had no possession of the fishing to the eastward of the old boundary; it is, however, unnecessary to go further than to say that no possession by them before that time is proved. To that extent at least I have no doubt that the evidence in favour of the finding of the Lord Ordinary preponderates. And I believe that such was the opinion of each of the noble and learned Lords who heard the argument.

My Lords, on all these points the whole five Judges below were agreed, and the result I have come to is, that their conclusions were right.

I now come to one question on which they did not altogether agree. The Lord Ordinary found by his interlocutor that the pursuer Gray and the defender Mrs Fleming were infeft in the lands and in the fishery *pro indiviso*, and therefore assoilzied the defender Mrs Fleming from the conclusions of this action, reserving right to the pursuer to institute such other action as she might be advised. This interlocutor was recalled by the First Division. The whole four Judges agreed in this result. It is perhaps not accurate to say that they differed from the Lord Ordinary's opinion, for it appears from Lord Deas' judgment that the Lord Ordinary founded his opinion on different materials from those before the First Division. However that may be, after a learned and, in an antiquarian view, a very interesting discussion on the now antiquated system of runrig and rundale, and a minute examination of the various proofs and documents, all four Judges agreed in the result, that the proof justified a declaration against both appellants, that Lady Gray has the sole and exclusive right of salmon fishing in the river Tay *ex adverso* of the land in question. They do not, however, arrive at this result in quite the same way.

The original grants under which the previously undivided estate of Inchyra and the salmon fishings thereof were in the year 1655 first divided into a just and equal survey, half conveyed to the author of Lady Gray and two quarters conveyed to the authors of Mrs Fleming, were followed by infeftment. They contained a description of the premises in words which have been learnedly discussed in the judgments below. That description has been substantially repeated in the feudal titles down to the time of the raising of this summons.

Lord Deas and Lord Mure, if I understand them aright, think that the language of the original title was ambiguously expressed, and that though "the just and equal half of the fishings of Inchyra" *prima facie* meant an undivided half of the fishings of the whole of Inchyra, it might mean the fishings of those several parts of the lands of Inchyra which together make the half of the lands, and which several parts of the land were from the beginning conveyed in severalty, and that there was enough shown in this case to justify the Court in coming to the conclusion that the title to the fishing *ab initio* was a several title. Lord Ardmillan and the Lord President did not think that the language of the title as to the salmon fishings was ambiguous; but, if I understand them aright, they thought it was proved that long before the deed of 1794 the owners of this originally undivided salmon fishing had by some agreement (the evidence of which if it was ever formally drawn up was lost) divided the fishings, and that in 1794 William Lord Gray and Mr Anderson, who were then competent to do what they liked with the fishings, did, by the deed of submission and the decreet founded on it, ratify and confirm the previous agreement to divide the fishings, and make that division binding in future. And the possession for seventy-nine years having been conformable to this deed, and both Lady Gray and Mrs Fleming in their pleadings founding on the deed and affirming that the right was several, this was sufficient as between these two parties to warrant the declaration.

As to a technical objection which might on this last view have been raised by Sir John Richardson, viz., that he could not be sued by Lady Gray until after she had established her several title against Mrs Fleming, the Lord President points out, in the first place, that no such objection was raised by Sir John Richardson on the record, and, in the next place, gives reasons for holding that it could not have availed him if timeously and competently raised.

My Lords, it may in some other case be important to decide which of these lines of argument is the right one. In the present case it is

not important, and seeing that both Lady Gray and Mrs Fleming have in the pleadings founded their case on the ground that the Hen fishing was a several fishing, which is the result at which all the four Judges arrive, I think that your Lordships may well affirm that result without expressing any opinion as to which of the lines of argument is the right one.

The conclusion at which I have thus arrived is, that the interlocutor appealed against should be affirmed, and both appeals dismissed with costs.

LORD O'HAGAN—My Lords, I shall follow the example of my noble and learned friend on the woolsack, and abstain from an idle repetition of the facts and arguments which have been so lucidly stated in the opinion which, with him, I have had the advantage of perusing.

Concurring with that opinion in all particulars, I only desire to say that, whilst both the appeals appear to me untenable, I entertain that conclusion with different degrees of confidence as to each of them. I have no doubt that Sir John Richardson has failed to establish his title. The grant of 1873 expressly saves all antecedent rights, and it is overborne and nullified by the charter of 1647, conveying the territory of Inchyra, with the salmon fishings belonging to it, and the series of dealings which vested the subject-matter of that grant in Lady Gray and Mrs Fleming. The lands to which Sir John Richardson has shown himself entitled give him no claim to the *ex adverso* fishings, and all the evidence he has offered fails to affect the force of the charter and the unbroken possession which has followed it. On the first appeal, therefore, I think the right of the respondents perfectly clear.

I am by no means so thoroughly satisfied as to the second appeal. It involves the consideration of a mass of evidence, oral and documentary, as to boundaries and march-stones, which refers to times long past, and transactions shrouded in much obscurity. But, on the whole, I think it sufficiently sustains the view taken, after plainly most careful consideration, by the Lord Ordinary and all the learned Judges of the Court of Session; and your Lordships, even if the effect of it were more doubtful than it is, would be slow to differ from a tribunal which had the great advantage, necessarily denied to us, of seeing the witnesses, and estimating the value of their testimony with reference at once to their integrity, their means of knowledge, and their accuracy of observation. It seems to me that the user for forty years on which the appellants were obliged to rely was not established, and that there is no sufficient reason for disturbing the well-considered judgments of the Courts below. I am therefore of opinion that in both cases the appeals should be dismissed with costs.

LORD GORDON—Your Lordships have paid careful attention to the arguments which have been submitted on behalf of the appellants in these appeals, which involve some important principles in regard to ancient titles, and also some difficult questions of fact depending upon conflicting evidence. As your Lordships have come to a unanimous judgment in support of the interlocutors pronounced by the First Division of the Court of Session, I am glad that my vote will not be required for the decision of the appeals, as I happened to have been counsel for Sir John Richardson in a previous appeal at his instance against the Flemings from a judgment of the Court of Session in 1871, involving to some extent the same questions which arise under the present appeals; and a noble and learned Lord who was also counsel for Sir John Richardson in that appeal thought it was better he should not take part in the proceedings in your Lordships' House in the present appeals. But as the questions involved are peculiar in regard to Scotch title and law, I have given careful attention to the proceedings in the appeals, and to the arguments of counsel; and having had an opportunity of perusing and considering the opinion of my noble and learned friend opposite (Lord Blackburn), I think it right to express my concurrence in the result at which he has arrived.

LORD CHANCELLOR—My Lords, before putting the question in this case, I have to state to your Lordships that my noble and learned friend Lord Penzance, who was present and paid great attention during the hearing of this case, has communicated with me upon the subject, and although he has been unable to attend your Lordships' House this morning, he entirely concurs in the conclusion at which your Lordships are about to arrive.

Interlocutors appealed against affirmed, and both appeals dismissed, with costs.

Friday, June 29.

DUKE OF ROXBURGHE AND OTHERS, APPELLANTS.

(*Ante*, vol. xiii. p. 498.)

Church—Allocation of Area—Quoad sacra *Parish.* Certain lands were in 1855 disjoined from the parish of J. and erected into a parish *quoad sacra.* Thereafter the parish church of J. was excambed for a new church. On a petition by the heritors to have the area of the new church divided by the Sheriff—*Held* (*rev.* Court of Session) that the excambion did not affect the rights of seat-holders in the old church, and that the seats in the new church fell to be allocated as they were in the old church at the date of the excambion.

In 1855 a portion of the parish of Jedburgh was disjoined and erected into a new *quoad sacra* parish called the parish of Edgerston. The majority of the tenants and inhabitants of the lands attached *quoad sacra* to Edgerston continued to occupy their old seats in the parish church of Jedburgh.

In 1869 the Marquis of Lothian offered to erect a new parish church and excamb it for the old parish church of Jedburgh, which was situated in the abbey of Jedburgh, the rest of which belonged to the Marquis. This offer was accepted, and in 1874, the new church being completed, the excambion was executed.

The heritors then presented a petition to the Sheriff (PATTISON) praying him to divide the area