

1817.

 JOHNSTONE
 v.
 CHEAPE, &C.

“ so that none of the lands belonging to, or possessed by,
 “ any of the parties in the submission, shall be injured
 “ by neglecting such repairs, and decerns and ordains
 “ the person or persons failing so to do, not only to per-
 “ form these stipulations, but also to pay whatever
 “ damage may be sustained by any of the other parties,
 “ in consequence of such neglect, as the same may be
 “ ascertained by fit neutral men,” had no authority so to
 decern and ordain; but that this ought to be held *pro*
non scripto, and to be considered as an excess not vitiat-
 ing the other parts of the decret-arbitral. And it is
 further ordered, that with this finding, it is ordered and
 adjudged, that the cause be remitted back to the Court
 of Session, to vary the said interlocutors, so far as this
 finding may require the same to be varied. And it is
 ordered and adjudged that the said interlocutors, in all
 other respects be, and the same are hereby affirmed.

For the Appellant, *Sir Saml. Romilly, Geo. Cranstoun.*

For the Respondents, *John Jardine, And. Clephane.*

NOTE.—Unreported in the Court of Session.

1817.

 THE DUKE OF
 BUCCLEUGH
 v.
 MONTGOMERY,
 &C.

HIS GRACE THE DUKE OF BUCCLEUGH AND QUEENSBERRY,	<i>Appellant;</i>
SIR JAMES MONTGOMERY of Stanhope, Bart., THOMAS COUTTS, Esq., Banker, London, WILLIAM MURRAY, Esq. of Henderland, and Others, Executors and Trust Disponees of the late Wm. Duke of Queensberry,	} <i>Respondents.</i>

House of Lords, 10th July 1817.

This case was remitted for re-consideration, and is fully reported under the second appeal, together with all the other appeals in the Queensberry and Neidpath entails, in 1819.

1817.

 THE DUKE OF
 BUCCLEUGH
 v.
 HYSLOP.

DUKE OF BUCCLEUGH AND QUEENSBERRY,	<i>Appellant;</i>
JOHN HYSLOP, Tenant in Halscar,	<i>Respondent.</i>