

No 17. said Laird of K. might not pursue him for the said spuilzie, because the said Ld. of Kinfauns had called for the said spuilzie, the plea dependent. It was *answered*, That as long as there was no sentence given upon another, he might call them he pleased for the said spuilzie. Which allegiance of the said Laird of Craigie was repelled. And albeit it was *alleged* by the said Laird of Craigie, That he was called for the spuilzie of certain goods alleged to be spuilzied from the Laird of Kinfauns by the Laird of Craigie his father, and were never intromitted with by the said young Laird, nor came never till his use; therefore he was not obliged to answer for the yearly profits of the said goods disposed by his father. It was *answered*, That the heir is obliged to answer for spuilzie, and the profits thereof, sicklike as the principal spuilzier. Which allegiance of the said Ld. of Craigie was repelled, in respect of the answer.

Maitland, MS.

* * Balfour reports the same case :

THE air of ony persoun, committer of ony spuilzie, may not be accusit criminally thairfor; bot he may be callit and persewit civille, siclike as the principal spuilziar, his predecessour, might have been callit, albeit nane of the saidis spuilziet gudis come to his use and profit, bot the samin, all and haill, were disponit be his predecessour.

Balfour, (SPUILZIE.) No 9. p. 467.

No 18. 1610. May 30. HOG against BELL.

A WIFE being acted in the books of session of her parochin, to abstain from suspect company of a slanderous man, under a pecuniary pain; albeit her husband have consented to the act, she being therefore decerned by that session to have contravened that act, and being charged for the penalty, the same will not have execution against the executors of her defunct husband; because it is not thought reasonable that the husband's goods shall be evicted for the penalty of an injury done by his wife to himself.

Haddington, MS. v. 2. No 1872.

No 19. 1630. February 10. MUIR against MUIR.

A REVERSION by decret of the LORDS extended against the heir, although the reversion bore no mention of heirs.

Fol. Dic. v. 2. p. 73. Auchinleck, MS. p. 207.