1629. *February* 25. WATSON *against* DICK.

No. 9.

IN action of spuilzie of household gear, *et in aliis inanimatis*, the Lords will not sustain the libel for profit; but, after probation, will have consideration of their damage and interest.

Auchinleck MS. p. 217.

1676. *July* 25. MAXWEL *against* MAXWELS.

No. 10.
Spuilzie of goods in coffers was sustained by the party having the key, and breaking up the coffers.

RACHEL MAXWEL pursues Mr. Hugh Maxwel and his wife for a spuilzie, and breaking up some chests and coffers, and taking out webs of linen and others which were in Rachel's possession. The defender alleged *non relevat*, by having of the keys, to infer possession, that being competent to children and servants in families; and the pursuer was in her father's family, and the goods must be presumed to belong to her father, and so to Mr. Hugh, as having right from a donatar his escheat after declarator.

The Lords repelled the defence, and sustained process, seeing the meddling with the goods was not by parents; and that the having of the keys was sufficient possession against any others but parents and masters.

Stair, v. 2. *p.* 458.

1678. *November* 29. MORE *against* M'PHADERICK.

No. 11.
Spuilzie not elided by the defender alleging that the pursuer had taken as much from him.

MORE pursues M'Phaderick for spuilzieing of certain cows; who alleged, Absolvitor, because he offered him to prove, that the pursuer had stole as many from him, or stole or reset his; and therefore he might lawfully take as many of the pursuer's by the Act 112. Parl. 7. & Act. 16. Parl. 10. K. Ja. VI.

The Lords found the defence not relevant, unless it were proponed in the terms of these acts, viz. "That the pursuer was a broken man, and a notorious thief, of any clan or combination that could not be reached by the ordinary course of law.

Stair, v. 2. *p.* 649.

1715. *June* 14. DONALD DOUNIE and Others *against* GRAHAM of Drynie.

No. 12.
Unwarrantable intromission infers spuilzie.

THE said Dounie and three other fishers, being tenants in some acres of land to Drynie, for which they paid a small silver duty; but he had the teind of all the fishes they brought on his ground, besides some other casualities, such as carriages, &c.—they at Witsunday 1712, do all suddenly remove from their pos-