

1541. *March 13.* SIR JOHN GREENWALLS *against* JAMES LAWSON.

In Sir John Greenwalls' cause, for spuilzie of his teind sheaves, against James Lawson of Humbie, the Lords decerned a day to the said James to call his warrant from Mr. George Hay, factor to Mr. Robert Wauchope, of the said vicarage, then pertaining to the said Mr. Robert, and now to the said Sir John, by resignation made thereof in favours of him by the said Mr. Robert; because the said James was in possession of the said teind-sheaves by virtue of tack made to him by the said Mr. George, as factor foresaid, and whereof were yet certain years to run; and the said Mr. George obliged him to warrant the said teind-sheaves to the said James, for the years contained in the libel; and therefore gave him a day to call his said warrant; albeit Mr. Andrew Blackstock, procurator for the said Sir John, alleged, that wrong had no warrant, and therefore no day should be given to the said James to the effect foresaid: Nevertheless the Lords decerned as said is; and that of the practique, whenever a man is in possession *cum titulo* for terms to run, and another call him for wrong, in occupying that gear or land, reus debet habere diem ad verandum warrantum suum, for that it is not kend for wrong or spuilzie; and the man that I allege my warrant may have good defences, unknown unto me.

*Fol. Dic. v. 2. p. 392. Sinclair MS. p. 16.*

1543. *June 25.* CRICHTON *against* TENANT.

John Tenant was called for a spuilzie of Mr. William Crichton out of the Monkrow, beside Falkirk. He alleged he had tack thereof of my Lord Dunkeld, and he was entered thereto by his precept, orderly, and so asked a day to call his warrant. In this case, *quia de jure regni Scotiae*, wrong has no warrant, the Lords by interlocutor decerned him to have no day to call his warrant.

*Fol. Dic. v. 2. p. 392. Sinclair MS. p. 52.*

1586. *April.* LADY MARR *against* EARL of GLENCAIRN.

The Lady Marr, Dame Annabel Murray, pursued the Earl of Glencairn for the spoliation of the hail goods and gear, both inside plenishing and jewels, that were in the Place of Erskine, intromitted, spuilzied, and taken away by the said Earl and his accomplices. It was answered by the Earl, That he had committed no spuilzie, because he intromitted by command of the King's Majesty; and for that produced a missive writing, direct from the King's Majesty to him, to take the Place of Erskine, and to intromit with the gear in the same; the Earl of Marr then being one of the rebels who enterprised the Castle of Stirling; and also

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A defender was allowed to call his warrant in a spuilzie of teind, where he had a tack, and was in possession.

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No. 70.

Nether the King's private letter, nor even a commission from the Privy Council, can warrant a spuilzie.