

1750. November 28. THOMSON against WATSON.

THE point was here stated, How far a tack of a salt-pan for the term of 15 years, descends to heirs, though not expressed.

No 15.

It came in by a bill of suspension of a decree of the Sheriff of Haddington, decerning the heir to remove, at the instance of a purchaser; which the Ordinary on the bills having refused, the defender reclaimed.

And, upon advising the petition and answers, it having been observed, That the interlocutor of the Sheriff is agreeable to the only decisions upon record, which are two above a century ago; and that there being no decision on the point since, it may be considered as a new case; the LORDS, without declaring any opinion upon the point, 'Remitted to the Ordinary to pass the bill.'

Kilkerran, (TACK.) No 10. p. 538.

 S E C T. III.

What Right go against Heirs.

1582. January, MONRO against WISHART.

ANDREW MONRO in Newmoir, as cessioner and assignee, pursued a pupil called Wishart, for a spuilzie of certain goods, of cattle and corns, committed by the father of the said pupil.—It was answered to the summons, That the said pupil being but of the age of eight or nine years, could not be convened for the trespass or spuilzie committed by his father, except according to the common law, his father had been first pursued, and litiscontestation made into the cause, or that it had been libelled *quatenus ad illum pertinet*.—To this and to the law it was answered, That the said law ought to be understood *in criminali contentione*; and in the practick of Scotland and all civil nations, actions are transferred *in hæredes et universales successores active et passive*. THE LORDS found; by interlocutor, the said pupil and infant might be convened for the spuiliation of violence committed by his father; and thereafter they reserved the violent profits to their own modification.

Fol. Dic. v. 2. p. 74. Colvil, MS. p. 348.

No 16.

Although the heir of the committer of spuilzie cannot be pursued criminally, he may be convened for restitution.

1552. July. LD. KINFAWNS against LD. CRAIGIE.

ANENT the action pursued by the Laird of Kinfaawns against Drum Craigie, for the spuilzie of his place, it was alleged by the said Laird of C., That the

No 17.

Found in conformity with the above.