

the pursuer's cedent, to vast sums; exceeding the value of that whole country: yet the Lords did adhere to their former interlocutor,—That they would consider, the time of the advising, the profits of the goods as in a spuilie.

It occurred to some of the Lords, and was moved,—whether *juramentum in litem*, being given to the party wronged; and upon that account,—that the quantities and the kinds of goods, taken from him, could not be so well known to others and proven,—if the same be a personal favour; or if it may be extended to an assignee?

Newbyth, *Reporter*.

*Page 218.*

1677. June 26. MR JOHN KINCAID *against* GORDON of ABERGELDIE.

MR John Kincaid having pursued Gordon of Abergeldie, as representing his father by behaving: His defence was,—That he had right by an expired comprising, whereby his father was denuded; so that he could not be heir to him. But in the same process, in respect a reduction and declarator was intended at the said Mr Kincaid's instance, within ten years after the apparent heir had purchased a right to the said comprising;—

The Lords, though there were no order used, did, *simul et semel*, sustain the said processes; and appointed count and reckoning, and auditors.

*Page 225.*