

- No. 3. fits of the goods that might have been pastured upon the said lands, like as lambs, wool, stirks, butter, and cheese, but allenarly for grass-mail of the goods; considering the said Laird had no goods upon the ground, nor yet libelled that any goods were spuilzied from him; which allegiance and exception were repelled, and the libel found relevant, according to the common law.

Maitland MS. p. 34.

1563. Jan. 17. ELIZABETH HULDIE *against* THOMAS STEILL.

No. 4.

Oxin, horse, or cattell, beand spuilzeit, the awner thairof has na action for the proffitis of his landis, or for the skaith sustenit be him in not manuring, labouring, teilling, or sawing of his landis, throw the wanting of the saidis gudis spuilzeit, gif he, efter the committing of the said spuilzie, labourit and manurit his landis in sic manner as he was wont to do befor the committing of the samin.

Balfour, (SPUILZIE) p. 467.

1580. July.

CLARK *against* SINCLAIR.

No. 5.

A party stop-
ped pan-
wood from
coming to an-
other man's
salt-pan.
He libelled
the loss of so
much salt
daily. The
Lords found
relevancy,
but subject
to modifi-
cation.

There was one Clark in Dysart that pursued my Lord Sinclair for the violent ejecting him forth of a salt-pan, the which he had in feu and heritage of the said Lord; and he qualified his ejection into this sort, that the said Lord stopped his colliers which were hewing in the heugh coals and pan-wood to the pan, in so far as he compelled the said colliers to hew to himself, and compelled the leaders that led to Clark's pans to lead to his own behoof, and so, through inlake of the coals, the pan lay idle, therefore he concluded the profit of the salt, albeit he was but ejected furth of the winning of the coals. It was excepted against the summons, by my Lord Sinclair, That the summons was not relevant to infer such an ejection, and that because he qualified only the stopping of the hewers and leaders of coal, and compelled them to lead into his own behoof, whereby he could not infer the profits of salt, but, at the most, the coals that were spuilzied; and the inconvenience appeared to be great for either of stopping of coals or away taking of the same to infer any ejection and interest of profits of a salt-pan, in respect he libelled not continuum actum, but he did the same at such a time, for albeit he had stopped the leaders, he might have got other leaders, and so super unico actu vel super diversis actibus, there ought not to be set a continual ejection and interest of profits of 10 or 12 hundred merks, as was libelled, but only the profits of things which were taken away; which were coals. To all this was answered, That there was no inconvenience, and that it might stand both together to libel ejection, by stopping and compelling of his colliers, and also spoliation of coals, et quod potuit actor interdicto unde vi et etiam actione bonorum.