

## VIOLENT PROFITS.

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1530. *March 23.* LORD YESTER *against* MR. GEORGE HAY.

**G**IF ony persoun be convict of ony ejectioun, or spuilzie, he aucht and sould not onlie restoir the saidis gudis and geir, or the avail thairof, bot alswa sould content and pay to the persewar the proffitis quhilk he micht have had, and quhilk he wantis throw the spuilzieing thairof, and that fra the day of the spoliatioun to the day of the raising of the summoundis, and not to the day of the geving of the decrete.

No. 1.

*Balfour, (SPUILZIE) p. 467.*

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1551. *July 23.*

LAIRD of COWDENKNOWS *against* TENANTS of DIDISTON.

Anent the action pursued by the Laird of Cowdenknows, Keeper of the Park of Edinburgh, against the tenants of Didistoun, alleging the said tenants broke down the park dike, and put in the goods, and therefore desired the said tenants to pay to him the profits he might have had for the said park in sowing, and all other profits; it was excepted by the said tenants, That he could not have the profits which he might have had of sowing, because they did no violence, but allenarly put in their goods to pasturage, and stopped him not to till and sow. Notwithstanding it was found by interlocutor, That the said Laird might pursue the hail profits of sowing, and all other profits, and repelled the exception.

No. 2.  
Found, that the highest profits may be libelled as in a spuilzie, although no violence done. Here cattle were put in to graze without liberty.

*Maitland MS. p. 5.*

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1552. *December 13.* LAIRD of RANKELLOR *against* LORD LINDSAY.

Anent the action pursued by the Laird of Rankellor against Lord Lindsay, for sitting in violence after lawful warning and ejection, it was excepted by the said Lord Lindsay, That the said Laird of Rankellor had no interest to pursue for the pro-

No. 3.

- 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.*

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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.*

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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.