

SPUILZIE.

SECT. I.

What understood to be a Spuilzie.—What Damages allowed.

1541. *March 9.* HALIBURTON *against* RUTHERFORD.

FOUND, That it was a relevant exception against a spuilzie, that the defender was in possession, and the pursuer having *brevi manu* entered thereto, the defender expelled him *incontinenter*.

No. 1.

Fol. Dic. v. 2. p. 389. Sinclair MS.

* * This case is No. 2. p. 13491. *voce* REDUCTION. The contrary was found, when the defender was expelled *ex intervallo*. See Douglas *contra* Boig, No. 3. *infra*.

1541. *March 24.*

JOHN MILLAR *against* The LAIRD of KILLARNIE and Others.

JOHN MILLAR, servant to the Earl of Rothes, was winnowing his bolls of shilling upon the Cumingair-hill of Lindors, within the bounds of the said abbey; and because he was upon the said abbey's ground, the Abbot and the Laird of Killarnie, his bailie, and his officers, with their complices, came, took, and poynded the said John Millar, being thereon, and also poynded his sacks and winnowing cloths, and temitt the sacks, and cast out the said John's shilling upon a hillock, so that the said shilling was fyled and spilt. The said John Millar called the said Laird of Killarnie and his officer *ut reos*, mentioning for the wrongous, masterful, and violent spoliation from him of the foresaid gear. The Lords discerned the said Laird and officer to have done wrong in the away-taking and withholding from the said John Millar his horse, sacks, and winnowing cloths; and

No. 2.

A person finding another winnowing corn upon his ground, and having thereupon thrown the corn out of the sacks upon the sand, the Lords found this a wrong, but no spuilzie.