1629. February 25. WATSON against DICK.

No. 9.

In action of spuilzie of household gear, et in aliis inanimatis, the Lords will not sustain the libel for profit; but, after probation, will have consideration of their damage and interest.

Auchinleck MS. p. 217.

1676. July 25. MAXWEL against MAXWELS.

RACHEL MAXWEL pursues Mr. Hugh Maxwel and his wife for a spuilzie, and breaking up some chests and coffers, and taking out webs of linen and others which were in Rachel's possession. The defender alleged non relevat, by having of the keys, to infer possession, that being competent to children and servants in families; and the pursuer was in her father's family, and the goods must be presumed to belong to her father, and so to Mr. Hugh, as having right from a donatar his escheat after declarator.

No. 10. Spuilzie of goods in coffers was sustained by the party having the key, and breaking up the coffers.

The Lords repelled the defence, and sustained process, seeing the meddling with the goods was not by parents; and that the having of the keys was sufficient possession against any others but parents and masters.

Stair, v. 2. p. 458.

1678. November 29. More against M'PHADERICK.

More pursues M'Phaderick for spuilzieing of certain cows; who alleged, Ab. solvitor, because he offered him to prove, that the pursuer had stole as many from him, or stole or reset his; and therefore he might lawfully take as many of the pursuer's by the Act 112. Parl. 7. & Act. 16. Parl. 10. K. Ja. VI.

The Lords found the defence not relevant, unless it were proposed in the terms of these acts, viz. "That the pursuer was a broken man, and a notorious thief, of any clan or combination that could not be reached by the ordinary course of law.

No. 11.
Spuilzie not elided by the defender alleging that the pursuer had taken as much from him.

Stair, v. 2. p. 649.

1715. June 14. Donald Dounie and Others against Graham of Drynie.

THE said Dounie and three other fishers, being tenants in some acres of land to Drynie, for which they paid a small silver duty; but he had the teind of all the fishes they brought on his ground, besides some other casualities, such as carriages, &c.—they at Witsunday 1712, do all suddenly remove from their pos-

No. 12. Unwarrantable intromission infers spuilzie.