

No 261. the act of parliament ought to be understood according to the words, *quæ sunt* all actions of spulzie and of the like nature, behoved to be interpreted *ubi juratur in litem*. THE LORDS found, that the party might pursue for wrongous intromission, upon the inhibition, notwithstanding of the act.

*Fol. Dic. v. 2. p. 118. Colvil, MS. p. 420.*

1610. February 2. CRAIGHALL against KINNINMONTH.

No 262.

INTRUSION not pursued within three years, expires and prescribes, as well as actions, especially if any greater profits be libelled nor the ordinary mails and services, in respect of the act of Parliament anent prescription in spuilzies, actions, and others of that nature.

*Fol. Dic. v. 2. p. 119. Haddington, MS. No 1778.*

1610. July 18. CORBET against VANS.

No 263.

AN action pursued for demolishing a mill, and thereby withholding the profits thereof, extending to 4 bolls victual daily, together with the materials, extending to 5000 merks, found to be prescribed by the act of Parliament of prescription of spuilzies, actions, and causes of that nature.

*Fol. Dic. v. 2. p. 119. Haddington, MS. No 1972.*

1624. February 25. DUNMUIR against PAYWELL.

No 264.

A spuilzie having been restricted to wrongous intromission, because not pursued within the three years; the Lords refused to allow any profits, whether ordinary or violent; and found that the pursuer could seek only *ipsa corpora*.

IN an action of spuilziation of certain sheep pursued by Dunmuir, flesher in Edinburgh, against one called Payweell, which action was restricted to wrongous intromission, and the spuilzie past from, because it was not pursued within three years; the LORDS found, That no profits ought to be granted in actions of wrongous intromission, neither ordinary nor violent profits; and that in such actions the pursuer had right only to pursue, and seek *ipsa corpora*, without profits, albeit he contended that the wrongous intromission gave him right to seek the ordinary profits; for though he passed from the spuilzie, which he behoved to do for not pursuing the same within the time appointed by the act of Parliament, yet that never purged the wrong done to him by the defender, but took only away from him that privilege of *juramentum in litem*, which he had, if the spuilzie had been sustained; but in all other consequences, he alleged that his action stood good to him for the profits of so many goods as should be proved