

otherwise, it would give great boldness to servants and men's bairns to do wrong. The Lords repelled the exception, and declared they would take good attendance to the probation, and reservè the modification to thinselves.

No. 71.

*Fol. Dic. v. 2. p. 392. Haddington MS. No. 1502.*

1610. May 24. KILMURE *against* WILLIAMSON.

In an action of ejection and spuilzie pursued by Bewis Kilmure against John Williamson, in Nether Glengour, for spoliation of certain stacks and rucks of hay, mown by the said Sir Bewis, and stacked upon the said lands of Glengour, this exception was found relevant, That the decret of removing being obtained against the pursuer, and he being removed by the Sheriff, it was lawful to the defender, as servant to the ——— of Lothian, his master, to meddle with the hay; notwithstanding it was answered, That the hay was separated from the ground by Sir Bewis.

No. 72.  
The orders of  
a master  
found to ex-  
cuse.

(The like betwixt the Laird of Lugton and Wilson, in the Potter-row; the Laird of Falhounside and Sinclair of Denston; and Joseph Marjoribanks and Michael Phinlaw against the Lady Melderstaines.)

*Item,* The same day, and in the same cause, it was found, That Kilmure ought not to have action of spuilzie for certain picks and mattocks intromitted with by one of the defenders, who was an ordinary workman in the silver-mine, in respect he was *in bona fide* to meddle with his own work-looms, which were delivered to him by his master before; and the most he could have against him, was only restitution of the work-looms.

*Kerse MS. fol. 197.*

1611. February 1. GUTHRIE *against* LINDSAY.

In an action of spuilzie of two mares, pursued by Patrick Guthrie of ——— against David Lindsay of ———, the Lords found an exception relevant upon a decret absolvitor obtained by Sir Walter Lindsay *contra* the said Patrick Guthrie, before the Secret Council, whereby he was assoilzied from all wrong in taking of the said mares, relevant to elide the said action of spuilzie.

No. 73.

*Kerse MS. fol. 197.*

1614. June 29. ELLIOT *against* LORD BALCLEUGH.

In an action of spuilzie of corns, pursued by John Elliot of Barnmouth against my Lord Balcleugh, the Lords found an action relevant founded upon a decret of removing, and lawful entry, conform thereto; and notwithstanding it was

No. 74.