

- No 11. which was libelled; yet the pursuer got *juramentum in litem* upon all that he had libelled, and having deponed upon plenishing and plough-graith, albeit it was *heterogeneum* from the oats that was proved, it was sustained; but his oath was taxed to a lesser quantity than he had sworn.

Spottiswood, (EJECTION.) p. 94.

- No 12. 1667. January 3. ——— against BRAND.

A PERSON having, without due order of law, intromitted with a pack of goods left in his hands by his debtor as a security for the debt, the debtor was allowed his oath *in litem*, though it was pleaded for the creditor, that he had caused four of his neighbours inventory and price the ware.

Fol. Dic. v. 2. p. 10. Stair.

* * This case is No 8. p. 1817, *voce* BREVI MANU.

- No 13. 1740. January 18. CAMPBELL against MAN.

THE practice has long been in spuilzies for the Lords to modify after the pursuer had given his oath *in litem*; but the method formerly was to ordain a condescendence of the damages to be given in before taking the oath *in litem*, which the Lords modified as they saw cause, and thereafter took the pursuer's oath *in litem*, lest they should have modified too much; for the oath might restrict, but could not extend the modification.

And in respect of the said former practice, such was the method taken in this case.

Fol. Dic. v. 4. p. 21. Kilkerran, (OATH.) No 1. p. 359.

- No 14. 1795. December 4. A. against B.

IN a spuilzie the Lords allowed both an oath *in litem* and in supplement to ascertain the amount of the sum lost. See APPENDIX.

Fol. Dic. v. 4. p. 21.