

they grinded elsewhere. THE LORDS found the act of thirlage *per se* could not be sufficient, unless it were made appear, that the ground of the brew-house, viz. in Leith yard-heads, lies within the barony, though these acts may be a title to begin prescription, and clad with 40 years possession made a complete thirlage; as also, found interruption relevant thus, that the defender had carried away considerable quantities of corns to other mills yearly, for 40 years together, or the whole corns of one year.

No 127.

Fountainhall, MS.

1681. *January.* EARL OF HADDINGTON *against* FEUARS OF MELROSS.

No 128.

FOUND, that immemorial possession of coming to an abbot's mill did not induce a thirlage, unless the pursuer had bond, act, or rollment of Court, or decret of abstraction, before the 40 years possession, to be a title of prescription; and that the abbot's charter of the barony *cum molendinis et multuris*, was not a sufficient title against the vassals, who had their feus from the abbot free of astriction.

Fol. Dic. v. 2. p. 105. Harcarse, (THIRLAGE, SUPPLEMENT) No 7. p. 295.

1681. *January 21.* GRIERSON *against* GORDON.

No 129.

GRIERSON, as heritor of the mill of Glenassen, pursues Gordon of Spadoch for abstracted multures, who *alleged*, That the fifth part of the grain must be free for the teind, which is always multure free, unless the thirlage had been consented to by the church-men; *2do*, That he can be liable for no multure of the seed or horse corn; *3tio*, That he can be liable for no multure of any grain as abstracted, but such as he grinds at other mills, and not for what he sells.

Thirlage was found to carry the multure both of stock and teind by prescription of possession, and also of all sold corns, but not to reach seed or horse-corns.

It was *replied*, That prescription is equivalent to consent; and it is offered to be proved, that the whole grain growing on the defender's land, without any abatement for teind, paid multure.

This reply the LORDS found relevant; but found no multure due for seed, or horse-corn; but found multure due for all that was sold. See THIRLAGE.

Fol. Dic. v. 2. p. 107. Stair, v. 2. p. 839.

* * * The same case is mentioned by Harcarse :

FOUND, that where the minister hath not the teinds in victual, but in money, if the tenant grind the same, he ought to grind it at the master's mill, and pay multure therefor.

Harcarse, (THIRLAGE, SUPPLEMENT) No 6. p. 295.