

1682. *March.* EARL of CASSILIS *against* HERITORS in MAYBOLE.

The feuers of the tenements of the Burgh of Maybole, being obliged in the *reddendo* of their charters, to bring all their corns, tholling fire and water, within the town, to the Earl of Cassilis their superior's mill;

The Lords found, That by tholling fire and water, only kilning and cobling was to be understood, and not brewing or baking, (though water be used in these) and that therefore the feuers are not liable to pay multure for malt, whether grinded or ungrinded: Although it was contended, that by this means the Earl's thirlage would be altogether disappointed, seeing a master that was not a feuer or thirled, (for the whole town was not thirled, but only such of the inhabitants as were my Lord's vassals) might make the malt, and the feuers buy it, and so be free; and though it was alleged, that in this circumstantiate case, where there is little or no growth, and malting not the trade of the feuers, tholling fire and water should extend to brewing and baking; and the defenders had no prejudice by buying corn, and allowing to their master the advantage others get, by grinding at his mill. But the Lords found, That though the defenders might buy made malt, and that they ought not to make it without the town, and then bring it, that being *fraudem facere domino*, yet this caution was not of any import, since it might be done by collusion that could not be well discovered. Here it was represented, that the Earl's mill was very insufficient.

No. 46.
Found, that by tholling fire and water, only kilning and cobling was to be understood, and not brewing or baking.

Harcarse, No. 724. p. 205.

1684. *February 28.* M'DOWAL *against* M'CULLOCH.

Bolls payable to servants are not exempted from multure.

In case, at the time of the abstraction the mill of the barony be not in condition to serve, the multures will be notwithstanding due, but not the smaller duties for service.

No. 47.

Fount.

* * This case is No. 4. p. 8897. *voce* MILL.—Harcarse's report of this case, *eodem loco*, treats of other particulars.

1686. *February 2.*

LADY KINCARRACHY, FEUER of the MILL, *against* VISCOUNT of STORMONT.

The Abbot of Skoon having feued the mill with the astringtion of *omnia grana crescentia* used and wont, after he had feued some lands which at the feuing of the mill were in his own mansing and parking;

No. 48.