

astricted, for which sum he had purchased an immunity from the astriction, so that the payment was a real diminution of his rent.

Answered : The heritor has thirled his tenants to his own mill, for which he receives so much more rent as makes up the payment of the dry multure.

Replied : If the tenants paid the dry multure themselves, they would pay so much less rent, and notwithstanding behoved to go somewhere to grind, and probably to their master's mill, and what he got for grinding would not be a teindable subject ; therefore he taking up in the rent what he pays for the multure, is only to be considered as collecting from the tenants for the multurur, and ought to have deduction thereof.

The estate being in different circumstances, part astricted, and part not, the Lords Commissioners found, That the dry multure payable by the pursuer to the College for the lands which were astricted to his mill, ought not to be deducted from the rental ; but found that the dry multure payable for the pursuer's lands, which were not astricted to any mill, ought to be deducted from the rental of these lands.

Act. *W. Grant and G. Sinclair.*

Alt. *Millar.*

*D. Falconer, p. 66.*

1745. *February 22.*

LANDAL *against* MELDRUM.

Where the astriction was of *omnia grana crescentia*, it was found, that if, after 48 hours, there be not water to serve the mill, the thirle may go where they will, with as much as is necessary for the use of their families.

It was also found, that the thirle had no right to sell corns, not grinded, for payment of rent or servants fees.

*Kilkerran, No. 12. p. 577.*

1746. *July 18.*

WILLIAM MACKIE *against* The MALTSTERS of FALKIRK.

William Mackie, tacksman of the mills of Falkirk, pursued some of the distillers and maltsters there in a declarator of astriction, and for abstracted multures, in which the Lords, 21st July, 1744, " Having considered the testimonies of witnesses and writs produced, found that the defenders were only astricted to the pursuer's mill as to their *grana crescentia* ; and found that the defenders their erecting and using steel mills within the town and barony of Falkirk was unwarrantable."

Each of the parties reclaimed against that part of the interlocutor whereby they thought themselves aggrieved.

The tacksman founded on a charter, 21st September, 1643, in favours of the Earl of Callendar, of the lands and barony of Callendar, comprehending dimidie-

No. 87.

and craving deduction thereof from his rent, was found entitled thereto if he had not thirled his lands to his own mill—otherwise if he had.

No. 88.

Mill unable to serve the thirle. May grain be sold?

No. 89.

The superior of Falkirk having his charters *cum astrictis multuris ville*, and having granted charters to the feuers with astriction of the *grana crescentia*, it was found on proof to