

No. 28.

1662. *January 3.* STEWART *against* ABSTRACTERS of MULTURES.

Under a thirlage of *omnia grana crescentia*, seed corn and horse corn are not comprehended.

*Gilmour. Stair.*

\*.\* This case is No. 118. p. 10854. *voce* PRESCRIPTION.

\*.\* See, to the same effect, Nicolson *against* Feuers of Tillicoultry, 14th January, 1662, No. 119. p. 10856. and Grierson *against* Gordon, 21st January, 1681, No. 129. p. 10871. The same, though the land and mill belong to different proprietors, as decided in Pittarro *against* Tenants of Redmire, 7th June, 1676, No. 125. p. 10863. See Fordel, in 1565, No. 1. p. 15859. and Cuthbert, in 1637, No. 27. p. 15972.

No. 29.

1662. *January 14.* NICOLSON *against* FEUERS of TILLICOUNTRY.

In a thirlage to the mill of a barony constituted by long possession, allowance was claimed by the Feuers of as much corn as would pay the feu-duties, Ministers' stipend, and public burdens, because they behoved to sell corn for satisfying these, and in so far the corns were not their own. This was repelled.

*Stair.*

\*.\* This case is No. 119. p. 10856. *voce* PRESCRIPTION.

No. 30.  
Thirlage of  
corns that  
should thole  
fire and water.  
See No. 27.

1663. *July.* FORBES *against* The TOWN of INVERNESS.

In a process for abstracted multures, betwixt John Forbes of Culloden and the inhabitants of Inverness, it was alleged, That *invecta et illata* cannot be extended to such corns as are bought by merchants, and are made malt of within the town, and thereafter transported over seas to Burren, and elsewhere, seeing the pursuer nor his authors were ever in possession of multure for such corns; and it were a prejudice to trade and exportation if such a thing should be sustained. It was answered, That *invecta et illata* is and ought to be extended to all corns that thole fire and water within the thirlage, whithersoever the victual be transported; and the reason why the pursuer has not been in possession is, because, till of late, there was no trade that way; likeas, victual, till this Parliament, was a forbidden commodity; and now, in the cases mentioned in the act, there being allowance of transportation, there is as great reason to pay multure for such corns as are

transported over seas, as for such as may be transported to any other haven in Scotland. No. 30.

Which accordingly the Lords found, and therefore repelled the allegiance.  
Decided also *de novo* in the Winter Session.

*In Presentia.*

*Gilmour, No. 90. p. 69.*

1665. December 7. VEATCH against DUNCAN.

No. 31.

The clause, *cum molendinis et multuris*, importeth freedom from astriction, though it be only in the *tenendas*. *Me referente.*

*Dirleton, No. 1. p. 3.*

\* \* Stair reports this case, where other particulars are treated of:

David Veatch, as heritor of the mill of Dersie, pursues John Duncan for abstracted multures, and obtains decree. He charges, and John suspends. Both parties being ordained to produce their rights, the heritor of the mill instructs, that his author was first infeft in the mill, before the defender's author was infeft in the land, and produces a decree of the Lords, *in anno 1575*, declaring the thirlage, wherein it was alleged, that the heritor of the mill being first infeft of the common author, and producing a precept from Cardinal Beaton, then Bishop of St. Andrew's, common author, ordaining the tenants of the defender's land to pay multure to the mill of Dersie, it was alleged, That this was not sufficient, seeing the charter did not thirle the defender's lands, but was only of the mill and multure thereof generally; as for the Cardinal's precept, it was not with consent of the Chapter, and so could not extend beyond the Bishop's life. Yet the Lords declared the astriction; notwithstanding it was now alleged, That the defender was infeft *cum molendinis et multuris*, by virtue whereof he had prescribed his freedom by 40 years time; it being answered, That once being thirled by the common author, no charter granted by him thereafter could prejudice the feuer of the mill; and as for prescription, offered to prove interruption, by paying of insucken-multures within the space of 40 years.

*Stair, v. 1. p. 324.*

1666. February 9. The HERITORS of JOHN'S MILL against The FEUERS.

No. 32.  
Insuficiency  
of the mill.

There being an old thirlage of a parish, which was a part of the barony of Dumfermline, to John's Mill, the feu of the mill being first granted by the Abbot of Dumfermline, and the feu of the land thereafter, there is a decree, *in anno 1610*, pronounced by the Chancellor, as lord of the regality, decerning all the feuers to