

No 5. THE LORDS found that the benefit of the mill belonged to the liferenter as to the multures of all that was ground without the thirlage; but found it not to extend to lands of the defunct's which he had thirled to the mill.

*Stair, v. 1. p. 358.*

1676. July 14.

THE PROCURATOR-FISCAL of the Regality of HAMILTON *against* LAWRIE.

No 6.  
Liferenters were found liable to keep head courts of regality, and not the fiars.

THE PROCURATOR-FISCAL of the regality of Hamilton charges William Lawrie liferenter of Blackwood, and his son the fiar thereof, for amerciaments for absence at the Michaelmas courts, at L. 50 for each absence of both; which L. 50 they suspend on these reasons, *1mo*, That by their infestments they are not obliged to keep any high courts, but have their lands *cum curiis*; *2do*, There is no fixed diets of the high courts, and therefore they are not obliged to keep them without citations; *3tio*, By their ancient infestments, they are obliged to keep the courts at Lesmahago, being a cell of the Abbacy of Melrose, within which these lands lie; *4to*, Both liferenter and fiar cannot be obliged for two suits for the same land; *5to*, The amerciament is exorbitant, and the Lords have been accustomed to modify the same. It was *answered* for the charger, That the suspenders infestment being ward, they are liable for suit and service by the nature of their right, which the LORDS found relevant. To the *second* and *third*, it was offered to be proven, that the diets were fixed, and that it was as convenient for them to keep them at Hamilton as Lesmahago.

Which the LORDS found relevant, but found the liferenter only liable for the suit, and modified the same to L. 20 for each absence.

*Stair, v. 2. p. 450.*

1677. July 13. THE LADY PRESTON *against* The Laird of PRESTON.

No 7.  
A liferenter found to have no right to the coal in her liferent lands. See No 4.

THE deceased Lord Preston, by his contract with ——— Bothwel his second wife, having provided her to an annualrent of 1200 merks out of his lands, and for security thereof, obliged him to infest her in the lands, declaring it to be in her option, to take her to the annualrent, or to possess the lands themselves, she chuses the possession of the lands, and insists for the benefit of a going coal-pit in the lands at the time of the contract, and now as being part and pertinent of the lands, and thereby carried, though not expressed, as vassals being infest in lands, though the superior remains infest *in directo dominio*, yet he hath thereby no right to coals in the lands, but the vassal hath right thereto, as part and pertinent, which must also hold between the liferenter infest in the lands in liferent and the fiar. It was *answered* for the fiar, That there was no parity in these cases; because liferents, however conceived, are