

THIRLAGE.

16015

a liberation and discharge of any former astriction; and therefore the astriction of the lands of Easter Moffat, by the disposition, charter, and infestment 1657, was *à non habente potestatem*.

No. 69.

“ The Lords sustained the defence of immunity, by virtue of the defender’s charter *cum molendinis et multuris* in the *tenendas*, and a feu-duty *pro omni alio onere*.

*Rem. Dec. v. 1. No. 51. p. 83.*

1725. July 31.

SIR LAURENCE MERCER of Aldie *against* FRANCIS DRUMMOND of Hallhole.

No. 70.

In a declarator of thirlage of the lands of Hallhole to Sir Laurence’s mill of Littleour, the Lords found the lands astricted to the said mill: But as to the services, there being only a proof of Hallhole’s assisting in bringing home the millstones, he therefore contended, That he was free from the other services, such as supporting the mill-house and dam-dikes.

It was answered; That the defender ought to be liable to all the usual services, as the legal consequence of the astriction, though the heritor might not have called the sucken to every particular service.

The Lords found, That the heritor of the mill had, in consequence of the astriction, right to the mill-services; and found the carriage of materials for supporting the mill-house was a natural service, as well as supporting the dam-dikes and carrying millstones, although the heritor might not have called the sucken to that particular service for the space of forty years.

*Act. Ro. Craigie.*

*Alt. Pat. Leith.*

*Clerk, Gibson.*

*Edgar, p. 205.*

1731. February. LOCKHART *against* PATERSON.

No. 71.

A clause of thirlage, astricting “ the hail grindable grains growing upon the lands,” was not found equivalent to a thirlage of *omnia grana crescentia*, importing only, that no part of the defenders’ grain is to be grinded by them at any other mill than the pursuer’s, and that all necessaries for the family, or for payment of the master’s or superior’s rents, in so far as payable in meal, is to be grinded at the pursuer’s mill.—See APPENDIX.

*Fol. Dic. v. 2. p. 466.*