

No. 2. 48 hours, and the mill not capable to serve them in that time, may carry their whole corns to other mills without paying any thing to their own mill on account of said corns, 3d July 1736. But upon a new petition for Carnwath, they adhered to the above interlocutor, 21st January, with this addition, “ and the mill not capable to serve them through want of water or “ other defect of the mill,” 27th July 1736.—*Vide* 15th December 1736, Earl of Wigton, *infra*. . Some of the papers here are very ingenious.

4to, The astrictio being constituted by writ, found, that by the very nature of thirlage services are due. The interlocutor is, that thirlage comprehends services where there is no immunity by prescription, 16th January and 25th June 1736.

5to, Where the vassal's charter expressly bears services, immunity cannot be acquired by prescription, 25th June 1736.

6to, Some also thought, that where the astrictio was by the vassal charters, though without mention of services, immunity could not be prescribed; but this not determined.

7mo, It was also thought, (but not determined) that payment of services by some of the vassals in the thirl, though as a gratuity, would interrupt the prescription of immunity as to the whole, like payment of an annual rent out of one or more tenements burdened with the annual rent. (See DICT. No. 75. p. 16016.)

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1736. December 15.

EARL of WIGTON *against* The TOWN of KIRKINTILLOCH.

No. 3. THIRLAGE in general of a Barony, and a large Burgh of Barony, found to import a thirlage, 1mo, of all *grana crescentia* that were necessary for the use of the families in the Barony; 2dly, That they cannot sell the *grana crescentia* and buy others in their place, otherwise the corns so bought are astricted; 3tio, That ground meal and malt, which are imported ground, and consumed within the Barony, are not astricted or liable to multure; 4to, That corns imported and afterwards ground, and consumed within the Barony, are astricted, 19th June, 1736. And in case of the mill's not being capable to serve the inhabitants through want of water, or other defect of the mill, gave the same interlocutor as in the case *supra*, of Carnwath and his Vassals, 21st January and 27th July 1736; viz. that after waiting 48 hours at the mill, they may carry as much corn as is necessary for the use of their families to other mills free of multure; 15th December 1736.