

No. 118. The Lords found the landlord liable in the same quantities of multure for the farms taken into his natural possession, which the tenants formerly were bound to pay.

Lord Ordinary, *Swinton*. Act. *H. Erskine*. Alt. *M'Cormick*. Clerk, *Colquhoun*.
C. *Fac. Coll. No. 194. p. 305.*

1785: July 21. DUKE OF ROXBURGH *against* ROBERT MEIN.

No. 119.

The words *cum molendinis et multuris*, in the clause of *tenendas* of a vassal's charter, import, *per se*, a discharge of thirlage.

The predecessors of Mein had obtained from the proprietors of the barony of Roxburgh, of which their lands were a part, charters containing, in the clause of *tenendas*, the words "*cum molendinis et multuris*." The Duke of Roxburgh, however, having sued Mein in an action of abstracted multures, contended, That the above expression, being confined to the *tenendas*, and not found in the dispositive clause, was not *per se* sufficient to confer immunity from the astringency; and urged, in support of his plea, the decision in the case of the Earl of Breadalbane *against* Macnab, No. 102. p. 16041.

But the Court were clearly of opinion, that the discharge was not less effectual than if the words in question had occurred in the dispositive clause, where, indeed, it was observed, they would not, from the nature of the right, have been so properly ingrossed. It was likewise observed, that the judgment in the case of Macnab, which was contrary to that now given, ought not to be regarded as a precedent.

The Lords assoilzied the defender.

Lord Ordinary, *Eskgrove*. Act. *Solicitor General, H. Erskine*.
Alt. *Cullen, Dalziel*. Clerk, *Home*.

S. *Fac. Coll. No. 221. p. 349.*

1788. June 17.

LORD MACLEOD *against* ALEXANDER ROSS and CHARLES MUNRO.

No. 120.

No multure can be demanded for grain due to the superior of the astringed lands, although he shall accept of a sum of money in lieu of it.

The lands of Culrossie, belonging to Alexander Ross, and those of Allan, the property of Charles Munro, were held feu of the Crown, for payment of certain quantities of grain, in lieu of which, for many years, a composition in money had been accepted of. The whole were thirled, *quoad omnia grana crescentia*, to the mill of Delny, belonging to Lord Macleod; and the heaviest rate of multure had been paid for all the grain raised on the grounds, with the exception of seed and horse corn only.

At last, an exemption was claimed corresponding to the quantities of grain exigible by the superior; and an action being instituted in the Court of Session, for ascertaining the rights of the parties, Lord Macleod.