

No 106.
and paying
the accus-
tom-
ed dues of
thirlage, past
memory of
man.

March 22.—In the same action, *alleged* by the defender for the knaveship, &c. because these particulars are only due to the miller and servants for attendance, and not to the master, and therefore could not be craved unless their corns had been ground. *Replied*, That ought to be repelled, in respect of the infetment bearing him to be infet in the multures, with the sequels; in fortification whereof he offers to prove continual possession of the same. The allegiance was repelled in respect of the reply.

Fol. Dic. v. 1. p. 141. Kerse, MS. fol. 95.

* * Spottiswood has copied the above almost *verbatim*, thus :

AN infetment of sasine (being only the assertion of a notar,) is not sufficient to verify a thirlage; nor will it furnish a man interest to pursue for abstracted multures, unless the charter containing the thirlage be produced, which will be sustained to be proven *cum processu*.

No process against any tenants for abstracted multures, if their master who is heritor, be not summoned; though it be alleged that they were in continual use of bringing their corns to the pursuer's mill, as thirled thereto, and of paying the accustomed dues in thirlage past memory of man.

In the same action, *alleged* by the defenders, that the summons was not relevant for the knaveship, bannock, gowpen, &c. because these particulars are only due to the miller and his servants for their attendances, and not to the master, and therefore could not be craved, unless their corns had been grinded there. *Replied*, That ought to be repelled, in respect of his infetment bearing him to be infet in the multures with the sequels, in fortification whereof he offers to prove continual possession of the same. The allegiance was repelled in respect of the reply.

Spottiswood, p. 206.

See MILL.

SECT. XXIII.

Citation in Process of Forthcoming.—In Adjudication.—In Reduction *ex capite inhibitionis*.

No 107. 1617. July 10.

BROWN *against* WRIGHT.

IN an action betwixt Brown and Wright, the LORDS found no process in a reduction *ex capite inhibitionis*, because the heir of the party inhibited was not summoned. *See* No 110.

Fol. Dic. v. 1. p. 141. Kerse, MS. fol. 61.