

1731. *June.* STEWART *against* WADDEL.

No. 72.

Found, in conformity with Monteith against Feuers of Abbotscarse, No. 66. p. 16009. That a feu-charter, bearing a certain feu-duty *cum omni alio onere*, although the charter bear a clause of absolute warrandice, if it do not bear a clause, *cum molendinis et multuris*, imports not an exemption from the thirlage.—See APPENDIX.

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1731. *July.* M'FADZEN *against* EARL of CASSILIS.

No. 73.

An heritor who lets a tack of his mill, with astricted multures, incurs not the warrandice of his tack, though his tenants, who are astricted, be not restrained by their tacks from turning their ground into grass. Astricted multures are like teinds, a casual rent implying no restraint upon the persons subjected, to manage their grounds in what shape they please, providing it be not done *in fraudem*.—See APPENDIX.

*Fol. Dic. v. 2. p. 468.*

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1732. *December 16.* CRAWFORD *against* HALKERSTON.

No. 74.

Heritors thirled to a mill, and who had also been in constant use of repairing the dam, and bringing home millstones, pleaded exemption from the other services, such as, the carrying materials for reparation of the mill-house, which had always been repaired by the heritor or miller, without any burden upon the sucken. And it was alleged, That the right to the thirlage being constituted by prescription, *tantum præscriptum quantum possessum*. Answered, Services are implied in the nature of thirlage, whatever way constituted. The heritor of the mill was found to have right to the services of carrying materials by the sucken, for supporting the mill-houes.—See APPENDIX.

*Fol. Dic. v. 2. p. 463.*

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1736. *February 17.* LOCKHART of Carnwath *against* DENHAM of Westshields.

No. 75.

A clause in a vassal's charter, " bearing the vassals, and the tenants and possessors of the lands, to be astricted to the superior's mill, and to carry thereto all their grindable grains growing on these lands, which they shall happen to grind," was found to be an astriction not only of the grain grinded for the necessary use of their families, but also of all grain growing on the lands which the vassals,