

riddle, and canvas, beside entertainment. There were also several tacks produced by the proprietors of Ballinsho, taking tenants bound to frequent the mill. But no evidence was brought of mill-services.

No. 79.

At advising this proof, the defender relied upon the opinion of Craig, Lib. 2. Dieg. 8. § 7.; of Stair, B. 2. Tit. 7. § 17.; and the authority of several decisions concurring, that the immemorial use of frequenting a mill, and of paying in-town multure, is not sufficient to constitute a servitude of thirlage. The pursuer did not controvert this principle; but observed, that what was sufficient to constitute a thirlage, and what was a sufficient presumptive evidence of such a constitution, were different points; that Craig and Stair, in the cited passages, treat only of the former; whereas the latter is the present case. The pursuer and his authors were all infest in the mill *cum multuris usitat. et consuet.* which is evidence that some lands have been thirled. And what better explanation can there be of a general clause, than immemorial possession of the multures of Ballinsho; which is presumptive evidence, of the strongest kind, that the lands of Ballinsho were meant in the several infestments.

“ The Lords found there is sufficient proof of the astriction of the grindable corns growing upon the defender’s lands to the pursuer’s mill, for payment of the multure and knaveship therein specified; upon the mill-master’s carrying the tenants’ corns to the mill, and giving them sieve, riddle, and canvas, and entertainment during the time they are labouring their corns. But that the tenants are not liable to bring home the millstones, clean the mill-dam, repair the mill nor mill-houses, nor to perform any other service.”

Rem. Dec. v. 2. No. 12. p. 24.

1740. December 19. MILLER *against* CLELAND and Others.

Where the astriction was of all grindable corns growing on the lands that should thole fire and water for sustenance of house and family, it was found to comprehend grain made into farm-meal.

Found, That personal services of bringing home the millstones, and keeping up the dams, were inherent in a thirlage established by constitution; but that furnishing thatch to the mill was not, nor could be, exacted without special constitution or possession.

But afterwards, November 17, 1741, Bruce Stuart of Blairhall *contra* Colonel Erskine, *infra*, it was found, That mill-services were inherent in a thirlage established by constitution, as well that of furnishing thatch to the mill as other services.

Kilkerran, No. 5. p. 573.

No. 80.
Grindable
corns.—Mill-
services.