

No. 105. ragement of the trustees for the improvement of manufactures. The machinery of this mill was indeed proper for grinding oats; but it had been erected entirely for another purpose, and upon the encouragement of the public; and therefore caution was thought sufficient.

The Lords, upon the 4th December 1760, altered their former interlocutor, and “found it proved, that the mill complained of was a mill fit for grinding, and had accordingly grinded, pease and corn into meal, although the said mill was likewise proper for grinding some kinds of barley, and therefore found the complaint proven, and ordained the defender, either to demolish the said mill, or to put it into such form as that it should not be fit for grinding pease and corn into meal, so that it might not interfere with the pursuer’s right of thirlage, and that betwixt and the 1st day of March then next; and decerned.”

And, upon advising another reclaiming petition and answers, 21st January 1761, “The Lords adhered to their last interlocutor, and refused the desire of the petition; but remitted to the Lord Ordinary to hear parties procurators farther in the cause, and particularly on this point, how far the mill can be rendered incapable of grinding corn into meal, without being totally demolished; and to determine and report as he should see cause.”

Act. *John Miller & Advocatus.*

Alt. *Lockhart.*

Clerk, *Hume.*

*Fac. Coll. No. 8. p. 13.*

1765. February 20.

WILLIAM SLOWAN *against* HUGH HAWTHORN of Castlewíg.

No. 106.

A tacksman of a mill not entitled to deduction out of the rent for the multure of part of the thirled lands possessed and laid in grass by the proprietor of the mill.

Hawthorn had let to Slowan the mill of Busbie, with multures, suckens, &c. During the currency of the tack, Hawthorn purchased the lands of Drummoral, being the most considerable farm within the thirle, took them into his own possession, and laid them in grass.

At the end of the tack, Hawthorn having pursued Slowan for arrears of rent before the Sheriff-depute of Wigton, Slowan craved deduction for the multures of the lands of Drummoral; which was denied by the Sheriff. Slowan presented a bill of advocation; and that having been refused, he preferred a petition to the whole Lords, pleading, that it was against equity he should be obliged to pay rent for multure which had been withheld from him by the heritor himself; and that, if the heritor might do this with one farm, he might do the same with the whole lands within the thirle, and so ruin the tenant at his pleasure.

The Lords “adhered to the Lord Ordinary’s interlocutor, and refused the bill.”

Petitioner, *Robert Campbell.*

*A. R.*

*Fac. Coll. No. 9. p. 16.*