was in use to be thirled, and that tholled water and fire; and also there was ane decreet produced for proving of the reply obtained at the instance of the Lady ———, sometime occupier of the said mills. It was alleged that the libel was not sufficiently proved, for without ane express writ, evident or constitution, there could be no such thirlage proved; and as to that that the witness had proved, that the inhabitants of Musselburgh had been in use in all times by-gone, to bring their corns that was bought and inbrought to the milns of Musselburgh, and to pay multure therefor conform to the libel, it was answered, that it was but actus mere voluntarius et hoc jus alteri non acquiritur; and that men's industry in buying or selling could not be unto them as a servitude, more nor the person's self; and as to the decreet, it was not given against feuers as were the defenders. It was answered, that the long use and consuetude in milns ought ay to be observed *et antiquitati standum est*; and the said use of corns that were bought and inbrought, was conform to ane law and act made, King William, Chap. 9.; and so the meaning of the law, by the express words of the text, is, That the corns that were bought and inbrought should pay multure. The Lords, after long reasoning at the Bar, pronounced *definitive* for the most part, That the libel and reply were sufficiently proved. No. 3.

Colvil MS. p. 446.

1605. *July* 10. A. *against* B.

No. 4.

He that is infeft in thirle multures will get that party ordained to pay thirle for his bear, whose infeftment binds him to pay thirle to the said miln for all his corns grindable, since bear is as well grindable both as bear and malt as any other corns are.

Haddington MS. No. 903.

1610. *Jannary* 17. NEILSON *against* TENANTS.

No. 5.

The 13th part sustained as the quantity of multures, in respect of the custom of the rest of the barony; albeit the defender offered to prove, that the possessors of his room had been in use, many years, to get the corns grinded at the said miln for a less duty, which was only found relevant for by-gones, but not in time coming.

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

*** Lord Kames gives this case as from Haddington. The Editor has not found it. There may be an error of the date.—See APPENDIX.