

insist in his reduction, as accords: and declared, that if the defender used diligence, in the reduction, they would take it to consideration, at the conclusion of the cause.

No 5.

*Fol. Dic. v. 1. p. 1. Stair, v. 1. p. 213.*

1666. January.

CAMPBELL against STIRLING.

ARCHIBALD CAMPBELL of Ottar, by contract of marriage, and infestment following thereupon; did provide Anna Stirling, his spouse, to the lands of Kin-naltie, by charter; carrying *cum molendinis et multuris*. At this time there is no miln upon the lands; but, during the marriage, he builds one; and, after his death, the relict possesseth both lands and miln: whereupon she and her present husband, and tenants, are pursued by this Ottar; for the duties of the miln.—It was alleged, *absolutor*, because the miln was built upon the husband's lands; which she liferented; being infest, *cum molendinis*; and *edificia* built by the heritor, *cedunt solo*; and consequently to the liferenter.—It was answered, That milns being *inter regalia*, are not transmitted, without an express disposition and infestment; and the general clause of a charter cannot do it.—*Replied*, That the general clause gives her good right, unless there had been a going miln, at the time of the infestment; in which case, it might have been questionable, unless the lands and miln had been erected into a barony; but where there was no miln; and a new miln is built; the miln accresceth to the liferenter, during the liferent; as well as if she had built it herself, after the husband's death:—which the LORDS found accordingly. Withall the LORDS declared, That if, after building the miln, her husband did thirle any other lands thereto, beside her liferent lands; that she is not to have the benefit of any such restriction.

No 6.

A miln built on an estate, during the incumbency of a liferenter, found to accresce to her.

*Gilmour, p. 130. No 180.*

1666. February 28.

Earl of LAUDERDALE against Viscount of OXFORD.

THE Earl of Lauderdale, being infest in the barony of Musselburgh; which is a part of the abbacy of Dunfermline; and was erected into a temporal lordship, in favour of the Lord Thirlston, thereafter Chancellor, the Lord Lauderdale's grandfather, in *anno 1587*; before the act of annexation, wherein the erection of Musselburgh, to the Lord Thirlston, is expressly excepted; thereafter, in *anno 1592*, the Queen was infest by the King, in liferent, in the abbacy of Dunfermline; with the consent of the Lord Thirlston, as to Musselburgh, and his resignation, to that effect. Shortly after, that same year, the King gave the Queen, an heritable, and irredeemable right, of the whole abbacy of Dunfermline; which was confirmed by a printed act of Parliament. The Queen lived till the year 1618: after which the King was served heir to his mother, in the

No 7.

The benefit of interruption of prescription, made by a donator during the usurpation, found to accresce to the true proprietor when restored.