had no right to the profits of any coals win within the lands, by virtue of her right of terce, but only to so much as might serve for her own use, and not to any more of any part of the commodity made by the heritor thereof, and therefore assoilzied from that pursuit, except as said is *pro tanto*, so far as concerned her use for her own fire. No 4.

Act. *Nicolson* et *Belshes*. Alt. *Hope* et *Stuart*. Clerk, *Gibson*.

Durie, *p.* 345.

1666. *January*. CAMPBELL *against* STIRLING.

No 5.
A liferenter being infeft in lands *cum molendinis*, found to have right to a mill built thereon after the infeftment, but to the multures of the liferent lands only.

ARCHIBALD CAMPBELL of Ottar, by contract of marriage, and infeftment following thereupon, did provide Anna Stirling his spouse, to the lands of Kinnaltie by charter, carrying *cum molendinis et multuris*. At this time there is no mill upon the lands, but during the marriage he builds one, and after his death the relict possesseth both lands and mill; whereupon, she and her present husband and tenants, are pursued by this Ottar for the duties of the mill. It was *alleged*, Absolvitor, because the mill was built upon the husband's lands, which she liferented, being infeft *cum molendinis*, and *ædificia* built by the heritor *cedunt solo*, and consequently to the liferenter. It was *answered*, That mills being *inter regalia*, are not transmitted without an express disposition and infeftment, 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 mill the time of the infeftment; in which case, it might have been questionable, unless the lands and mill had been erected in a barony; but where there was no mill, and a new mill is built, the mill accresceth to the liferenter during the liferent, as well as if she had built it herself after her husband's death.

Which the LORDS found accordingly; withal the LORDS declared, That if, after building the mill, her husband did thirle any other lands thereto beside her liferent lands, that she is not to have the benefit of any such restriction.

Gilmour, *No* 180. *p.* 130.

*** Stair reports this case:

1666. *February* 16.—Laird of Ottar having infeft his wife in conjunct-fee or liferent, in certain lands *cum molendinis*, did thereafter build a mill thereupon, and the question arising betwixt the liferenter and the heir, who should have right to the mill? The liferenter *alleged*, *ædificium solo cedit*. The heir *alleged*, That a mill is *distinctum tenementum*, that cannot pass without infeftment, and the clause in the *tenendo cum molendinis* is not sufficient not being in the dispositive clause, nor any mill built then, and he offered to make up all the liferenter's damage by building on her ground.

No 5.

THE LORDS found that the benefit of the mill belonged to the liferenter as to the multures of all that was ground without the thirlage; but found it not to extend to lands of the defunct's which he had thirled to the mill.

Stair, *v.* 1. *p.* 358.

1676. *July* 14.

The PROCURATOR-FISCAL of the Regality of HAMILTON *against* LAWRIE.

No 6.
Liferenters were found liable to keep head courts of regality, and not the fiars.

THE Procurator-Fiscal of the regality of Hamilton charges William Lawrie liferenter of Blackwood, and his son the fiar thereof, for amerciaments for absence at the Michaelmas courts, at L. 50 for each absence of both; which L. 50 they suspend on these reasons, 1*mo*, That by their infeftments they are not obliged to keep any high courts, but have their lands *cum curiis*; 2*do*, There is no fixed diets of the high courts, and therefore they are not obliged to keep them without citations; 3*tio*, By their ancient infeftments, they are obliged to keep the courts at Lesmahago, being a cell of the Abbacy of Melrose, within which these lands lie; 4*to*, Both liferenter and fiar cannot be obliged for two suits for the same land; 5*to*, The amerciament is exorbitant, and the Lords have been accustomed to modify the same. It was *answered* for the charger, That the suspenders infeftment being ward, they are liable for suit and service by the nature of their right, which the LORDS found relevant. To the *second* and *third*, it was offered to be proven, that the diets were fixed, and that it was as convenient for them to keep them at Hamilton as Lesmahago.

Which the LORDS found relevant, but found the liferenter only liable for the suit, and modified the same to L. 20 for each absence.

Stair, *v.* 2. *p.* 450.

1677. *July* 13. The Lady PRESTON *against* The Laird of PRESTON.

No 7.
A liferenter found to have no right to the coal in her liferent lands. See No 4.

THE deceased Lord Preston, by his contract with ——— Bothwel his second wife, having provided her to an annualrent of 1200 merks out of his lands, and for security thereof, obliged him to infeft her in the lands, declaring it to be in her option, to take her to the annualrent, or to possess the lands themselves, she chuses the possession of the lands, and insists for the benefit of a a going coal-pit in the lands at the time of the contract, and now as being part and pertinent of the lands, and thereby carried, though not not expressed, as vassals being infeft in lands, though the superior remains infeft *in directo dominio*, yet he hath thereby no right to coals in the lands, but the vassal hath right thereto, as part and pertinent, which must also hold between the liferenter infeft in the lands in liferent and the fiar. It was *answered* for the fiar, That there was no parity in these cases; because liferents, however conceived, are