

No 132.

LORDS, before answer, allowed a conjunct probation, anent the custom of the mill, as to this privilege. There was also a deduction craved for the seed, horse-corn, and teind, that they might be free of the multure, and that nothing might pay but what they grinded for their own use and consumption within their own houses. But it was remitted to the Ordinary to try if *omnia grana crescentia* were astricted by their infeftments; for there be many various decisions of the Lords upon this point.

Fol. Dic. v. 2. p. 108. Fountainhall, v. 1. p. 764.

No 133.

1727. July 5. Mr JOHN M'LEOD *against* VASSALS of MUIRAVENSIDE.

A SUPERIOR having feued out his barony to his vassals, astricting their *omnia grana crescentia* to the mill of his barony, the vassals, past memory of man, paid multure for the growing corns of all kinds, without any distinction betwixt stock and teind; but at last the vassals conceived that the stock only, and not the teind, (which never belonged to the superior) was included in the aforesaid astriction, they, for that reason, abstracted their teinds, and refused to pay multure for the same. It was *argued*, on the other side, That the words of the astriction carried teinds as well as the other growth of the lands, and therefore should the titular even draw the teinds, *ipsa corpora*, the vassal must be liable in an equivalent of dry multure. THE LORDS found, That the vassals, during the years of prescription, being in use to bring their whole corns growing upon their lands to be grinded at the superior's mill, without demanding any abatement upon account of teind, relevant to include the teind within the astriction. See APPENDIX.

Fol. Dic. v. 2. p. 107.

S E C T. VIII.

Title requisite for a Servitude of Pasturage.

1629. June 25.

SHERIFF of CAVERS *against* TURNBULL.

No 134.
An infeftment
of lands, *cum*
communi pas-
tura, not
found suffi-

IN a removing from the muir called Cavers-muir, the pursuer being infeft in that muir by the King *per expressum*, and the defender being infeft in his lands *cum pascuis et pasturis, cum communi pastura, cum libero introitu et exitu, et cum omnibus libertatibus et pertinentiis dictarum terrarum, by virtue whereof*