yet there was no proof of immunity for 40 years; and therefore they adhered to their interlocutor of 16th January last. They thought also that payment to any within the thirl, though as a gratuity, interrupted the prescription of immunity as to all within the thirl, like payment of annualrent out of one tenement where the annualrent is constituted upon more tenements.—25th June 1736.

The Lords adhered, with the addition, that in case of want of service in the terms of the former interlocutor they may carry the whole corns to another mill, and found no more due to the miller than the multure in the former interlocutor.—1st July 1736.

No. 3. 1736, June 19, Dec. 15. EARL OF WIGTON *against* THE TOWN OF KIRKINTILLOCH.

WE seemed to agree that there was here no prescription to astrict the *invecta et illata*, either in general, or such as are consumed in the barony; and we thought that it resolved in a question in law, Whether a general astriction imports an astriction even of *invecta et illata*, at least in so far as is necessary for the families or consumers, especially where there is a burgh of barony in the thirl. And we found that the *grana crescentia* necessary for the use of the families are astricted. 2dly, That they cannot sell these and buy others in their place, otherwise those imported are astricted. 3dly, That ground-meal or malt bought and imported, and consumed by the inhabitants, is not thirled. 4thly, That grain imported, and afterwards ground and consumed, is thirled. 15th December, The Lords Adhered. (See Note of No. 2.)

No. 4. 1740, Jan 22. LORD MAXWELL *against* PORTIONERS OF HOLYWOOD.

THE Lords, on consideration of the rights, that it appeared that the mill belonging to the charger, as well as lands of the suspenders, were part of the ancient Barony of Holywood, belonging to the Abbacy of Holywood, and having also considered the proof, found the defenders astricted, and remitted to the Ordinary to proceed accordingly. But they would not determine upon the footing of the Ordinary's interlocutor, that it was the mill of a barony;—which many of us thought not sufficient; but that it was a mill belonging to Churchmen. This indeed is against the decision 17th July 1677, Ross against M'Kenzie, which I shewed them, and was read. (DICT. No. 125. p. 10,866.) But we thought it not law.

No. 5. 1740, Dec. 16. LOW of Brackley *against* BEATSON of Mawhill.

IN a question of bygone abstractions, the Lords had such a regard to the constant possession, that in the process they found the defender liable for bygone abstractions from the time he discontinued going to the mill in 1730 to the commencement of the process in 1735 and thereafter;—notwithstanding it was as easy a multure as that the defender paid at other mills, or as he could have got his corns ground for, so that it was really no more than the *merces operarum*,—and 2dly, that the defender had reason to believe he was not thirled, there being no such servitude in his charters, or any other writing known to him,—3dly, that he and his predecessors had been in use to take their tenants bound