

*Newliston* against *Inglis*, that the lands of a barony are naturally astricted to the mill of a barony, and that such astriction is a servitude inherent in them. But it was found that, in this case, the suckeners were obliged to no mill-services, in respect there was no proof that they had ever performed any; and therefore, as the servitude was here constituted by prescription, the maxim took place, *tantum præscriptum quantum possessum*: so there may be a thirlage of multures without services, but not of services without multures; as was found, *November 20, 1739, Stuart against Stuart. Dissent. Præside.*

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1745. *January 9.* ——— against ———.

THE Lords found, That a process of injury, brought against a man for saying that a woman had committed adultery, was not competent before the Sheriff-court, but only before the Commissaries, as being a proper process of scandal relating to a crime cognoscible before the ecclesiastical court; but had it been a case where the soul was not so much concerned, and a pecuniary interest more, they would have found it a verbal injury, and so competent before the civil court.

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1745. *January 11.* DUFF against ———.

[Falconer, p. 90.]

JANET Duff got a bond from her father, payable “to her, or the heirs of her body, and assignees;” and in case she died without children, or without uplifting and disposing of the money, to Titius; which failing, &c. The question was, Whether she could test upon this bond? And the Lords found she could.

Lord Arniston thought that it was properly not a bond heritable by destination, since the substitution was not simple, as is usual, but only in a certain event; but, supposing the bond had been heritable *destinatione*, he and Lord Elchies and Lord Tinwald were of opinion, that it was testable, contrary to the opinion of Lord Dirleton.

The same was decided in the case of *Jean Craik* against *Anne Napier*, *June 26, 1739*. Adhered to unanimously, *June 4, 1745*.

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1745. *January 14.* ——— against ———.

[Falconer, p. 47.]

FOUND, That, in a process of removing against the sub-tenant, the principal tacksman must be called, according to the authority of *Craig*; but they did not seem to think it necessary to warn the principal tacksman.