where. The next question was, If the corns paid for the Master's farm duty and rent were thirled or not? If the same (person) was heritor both of the mill and the lands astricted, in that case the farm or rent is not thirled, but when the mill belongs to one and the thirled lands to another. See 11th July 1621, Keith against the Tenants of Peterhead, No. 13. p. 15964. 14th January 1662, Nicolson against the Feuers of Tillicountry No. 119. p. 10859; and 3d January 1662, Stuart against the Tenants of Aberledno, No. 118. p. 10854. No. 56.

*Fountainhall, v.* 1. *p.* 795.

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1698. *January* 26.

STUART of KINCARROCHIE, and OLIPHANT, his Grandmother, against GRANT of Bonhard.

No. 56.
Whether the benefit of a possessory judgment takes place in multures?

In this action, Stuart of Kincarrochie, and Oliphant, his grandmother, pursue Grant of Bonhard, for astriction, and for the bygone abstracted multures. The defender alleged, Absolvitor, because both being feus of the Abbacy of Scoon, I stand infeft in my lands *cum molendinis et multuris*, and accordingly have a mill in my own ground, and have been seven years in possession of my multures before your citation. Answered, The benefit of a possessory judgment takes no place in multures no more than in annual-rents, and other *debita fundi* and teinds; seeing it is *res incorporea et propriæ possessionis incapax*, and a servitude, whereas *res sua nemini servit.* See Stair's Institut. Lib. 4. Tit 17. Of Declarator of Servitudes; and the case in 1695, between Duff of Braco and Sinclair of Haddowmilne. The Lords sustained Bonhard's defence upon a possessory judgment. Then the pursuer alleged, that he had several decreets of declarator against the possessors of Bonhard, finding them thirled, and particularly one in 1668. Answered, These being against my Authors, I, a singular successor, was not obliged to know, and I have prescribed the benefit of a possessory judgment since the last of them. Replied, 1*mo*, Decreets of astriction need not be renewed against every heritor, but serve though the lands should pass through twenty hands, even as decreets of poinding the ground do. 2*do*, Decreet for abstracted multures against tenants, wadsetters, or liferenters, will never infer a thirlage against a proprietor not called, See 12th July 1621, Douglas *contra* The Earl of Murray; No. 113. p. 10851. and 13th July 1632, the Earl of Morton *contra* the Feuars of Muckart, No. 23. p. 15970. The Lords found this decreet of declarator stopped the septennial prescription even *quoad* a singular successor as to a possessory judgment in mill-multures. See June 28, 1636, Maxwell, No. 32. p. 10639.

*Fountainhall, v.* 1. *p.* 816.

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1702. *November* 25. BOTHWELL *against* CLERK. No. 57.

Found, that infeftment of a miln carried the ancient thirlage along with it as a consequence, although the pursuer did not connect his right with the party who first acquired the thirlage. *Fountainhall.*

*** This case is No. 13. p. 34. *voce* ACCESSIORIUM SEQUITUR, &c.—See No. 113. p. 10851.