

Lucratas 2 Feb. 1672 Cap. Guthrie contra L. Mc. Karston. Where a Mill  
 was ingeft in Lands with the Mill and Pertinents, upon which there  
 had been any Mill, or there was no standing Mill at the time of her  
 ingeftment, a Mill afterwards erected or redified by her Husband upon  
 Lands, was found to belong to the Wife, who was preferred to the Mill  
 Creditors specially ingeft in the said Mill by the Symbol as Sup. p. 100  
 27 July 1670 Lady Halyburton contra Creditors of Halyburton. A Mill  
 built by a Man upon Lands ingested by his Wife wherein she was  
 ingeft cum molendinis in the tenements only, was found to belong to the  
 her husband. Albeit a Mill is ascende to be distinctum tenementum  
 from Lands which requires a separate ingeftment; and the Words can  
 not be in the dispositive Clause; and the Mill offers to make up of  
 Liferenters Damage by building on her grounds. But then the Liferent  
 barred from claiming any Third-Molendines of Lands astricken to the  
 her Husband is Feb. 1666 Lady Otter contra L. Otter. Tenants at their  
 vol get no Satisfaction without a profit, for Houses built for their  
 use tho the Land is better thereby Stat. Lib. 2. Tit. 1. §. 40. These  
 of the Nature of impugne fructuum peripendendum causa, which are compar'd  
 with the Fructus l. 3. §. 1. ff. de impent. in rem dot. fact. l. 7. §. ult. ff. de ad. ma.  
 It is the same Thing with Respect to what is planted in a Ground, as it is  
 with Buildings: And if it happen that the Master of a Ground hath plant'd  
 Trees which were not his own, or that the Owner of the Trees hath plant'd  
 in the ground of another Person, and that they have taken Root in it, they  
 belong to the Master of the ground but till the Roots are fixed the Property  
 remains in the first Owner of the Tree. If all the Roots of a growing Tree  
 (and not some only) extend themselves into the neighbouring Soil, and draw  
 Nourishment from thence, the Tree belongs to the Proprietor of that Soil, tho  
 the Trunk or Branches continue on the ground in which the Tree was plant'd  
 l. 7. §. 13. ff. de acquir. rer. dom. junct. l. 6. §. ult. ff. arbor. fruct. cas. credit.  
 enim est alio terre alimeto aliam factam plantam l. 26. ff. de acquir.  
 rer. dom. And Trees are not separate Bodies from the ground they grow in  
 40. ff. de ac. empt. Where a Tree grows upon the Limits of a Soil belonging  
 several Persons, the Tree and Fruits of it are common to all of them §. 31.  
 Just. de rer. ad. Corn also sown in another's Soil belongs to the Proprietor of  
 the ground, who shall carry away the Crop. But in Planting and Sowing  
 same Allowances are to be made as to a Builder upon another's Ground §. 32.  
 Just. eod. there being the like Reason in both. Thus Corn sown in another  
 ground was found to accrue to the Heritor he paying the Expences of the  
 Sowing and Labouring 22 Feb. 1671 Gordon contra McCulloch as being eaten  
 completio factus.

What Accretion (which is partly natural and partly artificial) happens to  
 taking and gathering the Profits of an Estate, to which one really and truly  
 belongs

thought he had a good Title tho he had not §. 35. Just. de rer. sig. that is, not  
 the civil Profits as the Rent or Interest for Money lent, but the profit of the  
 Estate itself arising chiefly either by the Operation of Nature called natural  
 Profits, or by humane Industry call'd industrious Profits. For as has been  
 remarked in another Place in supra pag. his sincere and upright belief  
 of his own Right is to him in stead of virtue and makes him look upon  
 himself and to look upon by others as right Owners of the thing, tho  
 his upright Belief is not interrupted by any *inane* l. 36. ff. de iur. iur.

The Necessity of having the Property of the great part of Things  
 which we stand in Need of, and especially of those which we cannot use without  
 consuming or wasting them, hath given Rise of acquiring Things and of trans-  
 ferring the Property of them from one Person to another. A Right to  
 Things is acquired to one by the Deed of another either in personam  
 or in rem. Immovables are acquired by real and heritable Rights part-  
 ly vested in Vassals, partly in Superiors. Movables are acquired by the  
 Actions and personal Right. Some Rights may be constituted by word of  
 agreement; others require to be perfected by Writ.

Writs are either private under the Names of private Deeds, as Con-  
 tracts Bills Bonds Tickets Dispositions Testaments &c. or public under  
 the Names of Votaries or common Clerks, or Incorporations as Instruments  
 of Seisin and Intimation &c. Bonds of Incorporation, and public Offices.  
 Private Writs are either Dead inter vivos, which regularly oblige the gran-  
 tor and his Heirs, as Bonds Dispositions &c. or Dead mortis causa in Pros-  
 pect of Death, as Testaments or others of a testamentary Nature, which  
 oblige only Heirs and Executors if confirmed by the Grantor's Death.

Rights perfected by Writ in England are called Deeds, which consist of  
 three principal Points Writing Sealing and delivering; Writing to express  
 the Contents, Sealing to express the Consent of the Parties, and Delivery to  
 make them binding and perfect. Such Deeds are divided so into Simple and  
 Conditional Deeds. Simple or single Deeds are those wherein the Obligor or  
 Debtor only acknowledges Debt and promises Payment. Conditional Deeds  
 are those which oblige to a greater Sum (namely the Double) with a Condi-  
 tion annexed, which frees from the Penalty provided the principal Debt  
 is paid at the Day assigned. These double Bonds are in Scotland restricted  
 to the principal Sum and Annuelrents 22 January 1679 Fraser & Co.  
 contra Hamilton 25 January 1710 Savage and Dun contra Craig. 2<sup>o</sup>  
 English Deeds are divided into Judicial and conventional Deeds. A Judicial  
 Deed, called also an Obligation of Record (which answers in Effect to our  
 registrate Bonds, and judicial Enactment of Parties) is that which is entered  
 into before a Judge, or one that is in lieu of a Judge. Such are *officium*  
*mirantes*