

ding all Meal Flower Rice French Barley knocked Bear and Mustard
 Solit properly signifies with Grain, as after tholing Fire is to be carried
 to a Mill; which agrees not to Malt brewed unless one could fancy, that
 Traff were to be grinded over again. Nor is tholing Fire and Water ex-
 -tended to bought Meal baked within the Thirl 24 Novemb. 1600 Ram-
 -sey contra Town of Kirkcaldy. An Abstriction of omnia invecta et illa-
 ta, was found to extend to all Corns kilned and coked, albeit in the
 Country and not grinded at any other Mill by the Persons thirled 2d
 March 1637 Culbert contra Town of Inverness. Thirlage of invecta et
 -illata will be sufficiently proved by Custom, tho' not expressed in the in-
 -stitution of Thirlage; unless that be special and particular, in all things
 -Plain Lib. 4. Tit. 158. ss. One and the same Grain ~~was once paid~~
 sole for double Multure to the same Mill by ^{two} distinct Thirlages. ~~Commis-~~
 grana crescentia upon the Burrow Roads lying about this, hady being
 thirled to the West Mill thereof; and all Victual brought within the ~~the~~
 Town et patens aquam et ignem, tholing Fire and Water being ad-
 -stricted by a posterior Thirlage. The Inhabitants were ordained to pay
 the Multure of invecta et illata for Corns that grew in the ancient Thirl
 for which as grana crescentia Multure was also due, as Decernit. 1583
 Ramsay contra Town of Kirkcaldy. Because the Design of this
 -ling invecta et illata after a constituted Thirlage of grana crescentia
 had certainly been to oblige the Inhabitants to buy grain within
 the Thirlage, and pay Multure for the same as invecta. As there would
 be Multure due for grain brought in out of another Thirl to the Mill here
 of, and for the same as invecta et illata to the other Mill: So the Holder
 of the said Mill might justly claim the Multure of invecta qua talia
 that grew within his own Thirl, and paid Multure as grana crescentia
 otherwise the Thirlage of invecta et illata might be rendered elufory
 and ineffectual, by the Towns Men's serving themselves with Corn
 that grew within the other Thirl. But yet the Lands in the Barony of
 Kinross being feued out by the ~~Proprietor~~ ^{Proprietor} for a small Silver Rent and
 dry Multure of omnia grana crescentia to his Mill of Kinross; and
 thereafter invecta et illata or so much of their Corns as should be im-
 -ped and thole Fire and Water within the Barony of Kinross; also thirled
 It was found, that the Grain lying within the Barony cannot be thirled
 to the said Mill of the Barony both as grana crescentia and as invecta
 et illata; and having paid the dry Multure of grana crescentia are
 not liable to the other Duty of invecta et illata when ~~car-~~
 -ried

when carried into the Burgh 17 January 1722 Sleedman contra
 Rom and Young. Because the rational Interpretation of tholing
 grana crescentia et invecta et illata, is that the Proprietor designs
 not only to have the Corns growing upon his Land, but also those
 brought into his Town manufactured at his Mill, or which to him was the
 same, to pay a certain ^{Duty} with Liberty of being manufactured there or
 any where else. But the same Corns could never be subject to both these
 Duties: Since the Duty is the Price of the Manufactory and the
 same Corns cannot be twice manufactured at a Mill. To make them liable
 to two Thirl Duties were to make them pay the Price of the same thing
 twice: For there are not here two distinct Services of invecta et illata
 and of omnia grana crescentia, but one and the same Service extending
 over different Subjects, viz. not only the Corns growing in the Barony
 but also any other Corns brought into the Burgh: and so the grana cres-
 -centia when ever that Service is satisfied by paying of dry Multure,
 have thereby as it were purchased their Freedom and cannot be subject
 to the same Service over again.
 The Privileges and Effects of Thirlage are generally regulated by
 Custom, in so far as they are not cleared by Writ: Which Custom hath varied
 in different Places and at different Times. There obtains a Custom in
 France that where a Horse is observed carrying Corns out of the Thirl,
 the Millers may ~~seize~~ seize the Sack with the Corns and adjudge it to the
 Master of the Mill letting the Horse go. And by an old Statute
 our Ho. William 1. (Cap. 9.) the Master may claim the Horse and
 the Miller the Sack with the Corn. But this is not in Observance
 -Fau. Lib. 2. Tit. 9. s. 6. Yet the Seizing brevi manu a Horse carrying
 the Meal of thirled Corns back from another Mill according to the Cas-
 -tom of the Place, was not sustained to infer a Spulzie: The Defender de-
 -livering the Horse again with the Sack and Meal as sufficient as the
 same was at the Time of the Seizure 22 January & 14 March 1635 Mc Kay
 contra Menzies. Tho' where a Horse carrying Corns away from the thirled
 Mill, was seized with the Corns, the Lords spoiled the Seizer from Resti-
 -tution of the Sacks of Corn but found him liable to restore the Price of the
 Horse 1 December 1683 Thir contra Scot. Craig (Ho. 9. 5. Vers. Quaestio
autem vidi) is of Opinion, that Vassals whose Lands are expressly thirled
 to their Superior's Mill, may build Mills upon their own Ground, and
 draw Corns ~~from~~ ^{from} them to Forciners who are not under any Restraint of
 Thirl: So be they do not abstract their own Grain from his Mill, or fail
 to pay the Multure due for it. Seeing the Superior ought not to grudge