SWINTON. The tenants are now free from the mill, just as much as if it had never existed; so the rent is for the lands.

JUSTICE-CLERK. In former times, the ideas of heritors were different from what they are now. Heritors often laid on high rents, not on account of the manufacturing of the grain, but by way of rent. The Court has determined that mill-rent should not be teindable. But, if it appear that the proprietor has taken rent instead of multures, why should not *that* rent be considered as the rent of lands?

On the 20th July 1785, "The Lords sustained the deduction."

Act. A. Wight. *Alt.* Edw. M'Cormick.

Diss. Stonefield, Hailes, Braxfield, Swinton, Justice-Clerk, (in the chair.)

Non liquet, Henderland.

[This judgment surprised me, for the very reverse had lately been decided, after full consideration, in the noted case of *Sinclair of Freswick* against *The Family of Sinclair of Mey.*]

N.B. This judgment altered 8th February 1786—*Vide* Faculty Collection, and Dictionary, 15,766.

1785. *July* 21. DUKE of ROXBURGH *against* ROBERT MEIN.

THIRLAGE.

The words, "*cum molendinis et multuris,*" in the clause of *tenendas* of a vassal's charter, import, *per se,* a discharge of Thirlage.

[*Fac. Coll. IX.* 349; *Dict.* 16,070.]

BRAXFIELD. Supposing the lands to have been originally thirled, the charter 1517 imported a discharge. It makes no difference that, in 1734, that discharge is not repeated; for there was no need of continuing an exception once granted. I should have had a doubt whether paying in-town multures for 40 years would have been sufficient,—but there is no proof of that.

On the 21st July 1785, "The Lords declared immunity, and found expenses due."

For Mein, R. Cullen. *Alt.* R. Dundas.

Concluded cause.
