

1796. *March 2*SIR JOHN OGILVIE of Inverquharity *against* SIR DAVID CARNEGIE of Southesk.

No 264.

SIR JOHN OGILVIE claimed, at the Michaelmas meeting 1795, to be enrolled, *inter alia*, upon the lands of Baldovan; and an article under that name appeared in a valuation-book of the county, in 1683, at L. 550. At an after period, however, there had been a sale of certain parts of the lands, which were specially excepted in the claim; and, as it did not appear what part of the valuation was applicable to the lands sold, it was *objected*, That, without a regular decree of division, the valued rent was not legally instructed; and, although it was shown from the cess-rolls, that the lands claimed on applied to an article of the same name, entered in a valuation-book subsequent to the sale, and consequently applied to the original article *minus* the excepted lands, the freeholders sustained the objection. Sir John gave in a complaint, which was followed with answers, replies, and duplies. In the pleadings, it was shown almost to demonstration, not only by the cess-books, but by various pieces of other evidence, that, in the article of valuation founded on, allowance must have been made for the lands sold; and, notwithstanding all kind of new evidence was objected to, as incompetent to show, in the Court of Session, what was said to be, not the identity of two articles, but the amount of the valuation, which ought in every case to be first laid before the freeholders, the COURT reversed the judgment of the freeholders, and ordered Sir John to be enrolled.—See APPENDIX.

*Fol. Dic. v. 3. p. 436. Supplement to Wight, p. 6.*

1796. *March 4.*GOVAN of Hermiston *against* Sir GEORGE DOUGLAS and Others.

No 265.

AT the Michaelmas meeting of freeholders for Roxburghshire, 6th October 1795, a claim was presented for enrolment upon 'all and whole that half part' of the dominical lands of Herdmestown, now called Hermistone; and, in proof of the old extent, there was produced a retour, dated 1510, of the half of the dominical lands of Herdmestown, but without saying which half; and, as there was no evidence laid before the freeholders, to show that the half now called Hermistone was the same with that contained in the retour, they refused to admit the claimant to the roll. In a complaint, however, it having been made out to the satisfaction of the Court, that the lands claimed on, and those retoured, were the same, the claimant was ordained to be enrolled.—See APPENDIX.

*Fol. Dic. v. 3. p. 436. Supplement to Wight, p. 6.*