

1781. *March 7.*LIEUTENANT-COLONEL FERRIER *against* ROBERT GRAHAM.

No 26.

Discrepancy
in the des-
criptive and
valent clauses
of a retour.

COLONEL FERRIER claimed to be added to the roll of freeholders in the county of Ayr; and, for instructing the old extent of his lands, produced the retour of Sir William Cunningham of Cunningham-head, as heir to his father Sir William Cunningham, dated 12th May 1641.

This retour bore, that the deceased Sir William Cunningham died vest and seized ' in tota et integra tenendria de Woodheid, comprehenden. in se particulares terras, annuum redditum, aliaque respective subscripta, viz. totas et integras quatuor mercat. terrarum de Middleton, *quatuor mercat. sex solidat. et octo denariat. de Caprinstante*, (the lands claimed on) viginti solidat. et octo denariat. de Dreghorn, viginti duas solidatas de Warric, sex solidat. et octo denariat. de Drumgreislaw, et unam mercatam terrae de Woodheid, cum pertinent. unum annuum redditum tertiae partis unius librae piperis annuatim levand. de terris de Bartonholm, quatuor mercatis terrarum de Warrichill, omnes antiqui extentus jacent. infra balliatum de Cunninghame, et comitat. de Ayr.' The *valent* clause was in these words: ' Et quod tota et integra dicta tenendria de Woodheid, comprehenden. in se particulares villas terras, annuum redditum, aliaque respective supra scripta, viz. quod dictae quatuor mercat. terrarum Middleton, *quatuor mercat. sex solidat. et octo denariat. terrarum de Caprinstante*, viginti solidat. terrarum de Dreghorn, viginti duae solidat. terrarum de Warric, sex solidat. et octo denariat. terrarum de Drumgreislaw, una mercat. terrarum de Woodhead, cum pertinent. et praedict. quatuor mercat. terrarum de Warrichill, nunc valent per annum sexaginta sex libris duodecim solidis monetae praedictae, et valuerunt tempore pacis undecim libris et duobus solidis monetae praedictae, et quod dictus annuus redditus dictae tertiae partis unius librae piperis nunc valet per annum tertiam partem unius librae piperis, et tantum valuit tempore pacis.'

To this retour it was *objected* by Mr Graham, That the descriptive values exceed those in the *valent* by seven merks and eight pence.

Answered for Colonel Ferrier, It is evident, from the repetition of the values of each particular tenement in the *valent* clause, corresponding precisely with the descriptions, that the variation pointed out by the objector has originated solely from a blunder in summing up the extents of the different tenements.

THE LORDS repelled the objection.

Act. J. Boswell.

Alt. G. Ferguson.

Fol. Dis. v. 3. p. 493. Fac. Col. No 48. p. 86.

* * * See Synopsis at this case.