

1763. *July 20.*

THOMSON of Ingliston *against* OFFICERS of STATE and EARL of GALLOWAY.

No. 151.

The Lords found it was no sufficient objection to the approbation of a valuation of the Sub-commissioners, that the Crown being titular, the Crown Officers had not been called as defenders in the process before the Sub-commissioners.

Fol. Dic. v. 4. p. 358.

* * This case is No. 12. p. 10687. *voce* PRESCRIPTION.

1770. *February 14.*

JAMES PRINGLE of Bowland *against* The OFFICERS of STATE.

No. 152.

Objections to the formality of a report of the Sub-commissioners for the Valuation of Teinds, and that the same was lost by dereliction, repelled.

Pringle of Bowland, after having obtained a decree of valuation of the teinds of his lands, but before it was extracted, made a discovery of a report of the Sub-commissioners, in the year 1630, in which his lands were comprehended.

He accordingly brought a process of approbation; in which the Officers of State appeared, and stated the following objections:

1st, That in the report, so far as it related to the lands in question, the depositions of the witnesses were neither signed by themselves nor by the Commission. Without signature of some kind, there was no proof at all; and in sub-valuations it was particularly requisite, "That the oaths of the witnesses should be subscribed by most part of the Sub-commissioners present;" this being one of the articles contained in their commission. Besides this, there was no general finding by the Commission at the end of the proceedings, nor indeed in any other place, which could include the sederunt in question.

2^d, The parish as to which the report was made, was one of the mensal churches of the Archbishop of St. Andrew's. Though so materially interested, therefore, as titular of the tithes of this parish, yet it did not appear that the Archbishop had either been called or compeared; which made a total nullity in the sub-valuation that had been made.

3^d, Although this sub-valuation had been properly authenticated, yet it had never been made use of, or founded on by the parties interested. Without any regard to the rent contained therein, tacks had been taken out from the Crown, and the composition struck upon the rent as it stood at the time, much higher than the rent libelled. The pursuer also had brought a process of valuation in common form; all the previous steps had been followed out; and a decree of valuation pronounced, at a rent much higher than that contained in this supposed report. As these acts, therefore, were totally inconsistent with this report; they inferred a contrary usage, which grounded a sufficient objection upon the negative prescription; and must therefore be held a complete bar to the approbation craved.