

trary. The only objection not obviated is a new one, that the road may be washed away. This also may be obviated by going so much farther back into Mr Campbell's ground, without ruining his inclosures and intersecting his little property.

On the 4th December 1772, "In respect that the decret does not proceed upon sufficient evidence of the necessity of changing the road, and that the damages were not previously ascertained, the Lords suspended the letters, reserving to the Justices again to take the matter under their consideration and to proceed according to the Act 1669."

*Act. H. Dundas. Alt. A. Lockhart. Reporter, Coalston.*

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1772. December 9.

PUBLIC OFFICER.

Validity of a commission to a party and his son, as conjunct clerks; with a survivancy.

IN the Teind Court, upon production of a commission to Mr Joseph Williamson and his son, as conjunct clerks, with a survivancy, a question occurred as to the validity of the commission.

COALSTON. I would have moved for remonstrating to the King, had this been the first case of the kind; but I see evidence of practice.

HAILES. Since we are to receive the commission, let it be upon a preamble of the practice, that posterity may be put upon its guard.

ELLIOCK. A preamble will serve no purpose, because what is done in the Teind Court will be no notification in any other.

PRESIDENT. The practice proved in other courts or offices, affects not me. My opinion is, that, in matters where judgment is required, there can be neither conjunction nor survivancy. *Here* the office is merely ministerial.

The Lords having considered the precedents produced, and that the office is purely ministerial, and that Mr Williamson's commission gave a power of deputation, ordered the commission to be received.

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