

1629. February 13. L. DUMFERMLINE against M'GILL, Minister there.

IN a suspension of charges for removing from a minister's glebe, upon a reason that there was as much land as would extend to four acres nearest to the manse, and nearer than the land designed, which was condescended to be of the lands within the precinct of the abbacy, and which the suspender alleged ought to be designed, conform to the act of Parliament *anno* 1572, the same being arable land; this reason was not sustained, because that land within the precinct condescended upon in the said reason, was parked in within the precinct, which now was become the King's Park, the Abbacy being annexed to the Crown, and the said precinct kept for the King's Park, and that land never being laboured nor tilled of before. Neither was it respected that the suspender alleged that the same might be tilled, and was commodious for that use, and that the minister had his manse within the precinct, which ought to draw with it the glebe thither also, where there was the conveniency of a glebe; which was not respected.

Act. M'Gill.

Alt. Stuart.

Clerk, Gibson.

*Fol. Dic. v. 1. p. 351. Durie, p. 425.*

1629. July 24. NAIRN against BOSWALL.

THE minister charging to remove from his glebe, which was designed out of the abbot's lands, it was found, That he could not have his glebe out of abbots lands, in respect of the act of Parliament 1572, seeing there were parsons lands; which the LORDS found ought first to be discussed, before any other abbots lands could be designed; and albeit the said parsons lands were of old feued, and that the same were all new built houses, and a part of the town of Dysart built thereon, so the minister alleged that the same was not arable land; yet the LORDS found, That the minister had right first to seek the same, and that the feuers thereof should either remove therefrom, or else obtain and buy another glebe to him; for the LORDS found, That the foreaid act of Parliament extended as well to the glebe as to the parson's and vicar's manse.

Act. Nairn.

Alt. ———.

Clerk, Gibson.

*Fol. Dic. v. 1. p. 352. Durie, p. 467.*

1636. July 13. LAMMOND against BENNET.

MR ANDREW LAMMOND minister at Merkinsh, having charged upon his designation of his glebe Robert Bennet heritor thereof, who suspending, that the lands

No 14.

In a removing from lands designed as a glebe, the defence, that there was land within the precincts of an abbey, nearer than the land designed, was repelled, because the abbey was annexed to the Crown, and the lands unparked and not tilled.

No 15.

A glebe found not designable out of abbey-lands, where there were parson-lands; tho' the latter had been feued, and houses built thereon.

No 16.

Found, that a minister may get his

No 16.  
glebe designed, though the lands be meadow and marsh, and part thereof houses and yards, let to feuers.

designed are not arable lands, but the greatest part thereof was meadow and mire, and unfit for tillage or labouring, and the rest thereof was houses and yards set out to feuers;—THE LORDS respected not this reason, because that clause in the acts of Parliament, bearing arable land, if any such clause were, (as there is none I think.) is conceived in the minister's favour, and he may seek other lands, such as these are, where there are no better to be had; and sicklike found, that the minister ought not to be debarred from his glebe, although it were laboured in yards, and houses built thereupon, there being no other kirk-lands in the parish.

Clerk, *Gibson.*

*Fol. Dic. v. 1. p. 351. Durie, p. 813.*

1636. July 13.

HALYBURTON *against* PATERSON.

No 17.  
Found, that abbot's, prior's, or bishop's lands must be designed, before lands belonging to a chaplainry could be claimed; though the chaplain-lands should be at hand, and the others three miles distant; and that the act of Parliament mentioning contiguity, must be understood to mean, the most ewest lands of the same kind.

MR THOMAS HALYBURTON, minister at Kinnoul, his charges upon his designation being suspended by Mr John Paterson, *alleging* the lands designed to pertain to him, and are holden of a chaplainry within the kirk of Kinnoul, and that there being both prior's and bishop's lands within the parish, these ought to be first discussed, and designed before his chaplain's lands could be designed, conform to the order set down in the 165th act, 13th Parl. James VI.;—and the minister *answering*, That the most ewest kirk-lands ought to be allotted to him for his glebe, which is the land now controverted; whereas the other bishop's or abbot's lands are three miles distant from the kirk manse and glebe; and it were no reason to put the minister to so seen an inconveniency as to force him to take and labour a glebe three miles distant from his service and kirk;—THE LORDS, notwithstanding of the answer, found the reason relevant, and that the abbot, prior, or bishop's lands, ought to be first designed before the chaplain-lands could be claimed, albeit the said chaplain-lands were ewest, and the other was three miles distant, as said is, which was not respected; for the LORDS found, That where the acts of Parliament spoke of contiguity or ewestness, it ought to be understood that the most ewest of these lands should be designed in their own kind, as the most ewest of parson-lands, and the most ewest of of prior's lands, and so of bishop's lands, and *successive* in order, but not *comparative* among themselves; so as if the bishop's lands were nearer than the abbot's or parson's, that the nearest should be first, but that the nearest of its own sort should be designed before the more remote in that same kind, and no otherways.

Clerk, *Hay.*

*Fol. Dic. v. 1. p. 352. Durie, p. 814.*