

No. 8. seeing he also produced, where the suspender's predecessors had wadset the same piece land controverted *per expressum* under reversion, which reversion he produced, which evidently shewed that this same land pertained to him heritably as a part of his barony; which the LORDS repelled in respect of the two several exceptions foresaid, which were *separatim* found relevant, and admitted to the minister's probation.

Act. *Nicolson.*Alt. *Hops.*Clerk, *Hay.**Fol. Dic. v. 1. p. 351. Durie, p. 208.*

1628. June 13. HAMILTON against ATHLINGTON and TWEEDIE.

No. 9.

The designation of a glebe was found null, tho' it bore to be made by the moderator and others of the presbytery, with the assent of the whole elders and honest men of the parish; because there were none denominated *specificce*, nor did it bear, that the presbytery had authorised the moderator to design it.

In a suspension of charges of removing from a minister's glebe, Hamilton minister at Linton against ———; the LORDS found a designation null, upon this eiked reason proponed after inspection, viz. because the designation was not made by a commissioner having power from the presbytery, to pass and make the said designation; albeit the same was made by the moderator of the presbytery, being directed to visit that kirk, as the said designation bore; but not bearing, that upon complaint or desire made to the presbytery concerning the glebe, he had warrant or direction from them to design, only bearing that the moderator in his said visitation, upon complaint made to himself, and to the gentlemen of the parish of Linton then present, of the insufficiency and inlake of his glebe, the said moderator, with consent of the parishioners present designed, &c. which the LORDS found not enough, wanting a specific warrant as said is; and also because it bore not, 'That it was done with consent of two or three honest men in the parish,' whose names ought to have been set down in the designation specially, for it was not sufficient that it bore, 'to be done with advice of the parishioners generally,' condescending upon no special person, albeit also two or three of the witnesses in the designation were of the honest men of the parish, conform to the 48th act Parliament 1572; also, this designation was of a whole new glebe, whereas there was an old glebe, which the minister possessed, and was not four acres complete; so that the designation should only have been made of so much as might make out the old glebe complete, and not of a whole new glebe.

Act. *Cunninghame.*Alt. *Stuart.*Clerk, *Gibson.**Fol. Dic. v. 1. p. 351. Durie, p. 375.*

** Spottiswood reports the same case:

THE designation of a minister's glebe must bear, That it was made by such and such of the ministry, and any two named specifically of the honest men of the parish required by the ministers to join with them in designing of the said

glebe, otherwise the designation will be thought not done, according as the act of Parliament prescribeth; as was found between Mr John Hamilton, Mr Athlington, and John Tweedie, whose designation was found null, notwithstanding that it bore it to be made by the moderator, and others of the presbytery of Peebles, with the advice and assent of the whole elders and honest men of the parish, because there were none denominated *specificce*.

Spottiswood, (KIRKMEN, &c.) p. 188.

No 9.

1668. *January 28.*

Mr WILLIAM MUSHET Minister of Hassenden, *against* The DUKE and DUTCHESS of Buccleugh.

THE minister of Hassenden having obtained designation of a glebe out of the Duke of Buccleugh's lands, pursues removing; the Duke suspends on this reason, that the designation is null, not bearing citation or intimation to the parishioners, neither is the Duke cited to the designation upon 60 days, as being out of the country. It was *answered*, That by the constant custom in such cases, there is only intimation given at the kirk-door, or out of the pulpit, of the day of designation, which the defender offers to prove uses to be done in the like case.

Which the LORDS found relevant, albeit the intimation was not mentioned in the designation.

Fol. Dic. v. 1. p. 351. Stair, v. 1. p. 515.

No 10.

The designation of a glebe found to have been sufficiently intimated, by warning of the heritors from the pulpit or at the kirk-door.

S E C T. V.

Glebe, out of what lands designable.

1594. *January 6.*

CUNNINGHAM *against* KIRKMAHOLM.

A MANSE and glebe being designed to Mr Daniel Cunningham minister, and he having charged the occupiers to remove, they suspended, *alleging*, that the glebe designed for him was of great bounds, whereupon there were many houses biggit, and could not be decerned to appertain to the minister. THE LORDS ordained the letters to be put to further execution against the Laird of Kirkmaholm and his tenants, notwithstanding the reason; because there were many of the said houses biggit since the time of the said designation.

Fol. Dic. v. 1. p. 351. Haddington, MS. No 469.

No 11.

Found that a minister may get the kirk-lands nearest to the kirk and manse designed to him though houses have been lately built on them.