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. Forbes reports the same case :

MR WILLIAM STEEL pursued the heritors of his parish of Lochmaben to make payment to him of L. 999 : 14s. as the expense of building a manse for the pursuer, estimated in the terms of the act 21st, Ses. 3. Parl. 1. Cha. II. by order of, and approved by the presbytery ; and for 16 years annualrent thereof that he had served the cure there wanting a manse, according to their respective proportions.

THE LORDS found, that the words of the 21st act of Parliament 1663, viz. that the heritors build manses at the sight of the ministers therein appointed, and two or three of the most knowing or discreet men of the parish, do empower such ministers and two or three of the said most knowing and discreet men over and above the tradesmen named by them, to proceed in absence of the heritors called by an edict. And found, that the said ministers and knowing and discreet men may proceed not only to liquidating of the value of the manse ; but also may appoint a place for its situation, and proportion the value thereof upon the heritors conform to their valued rent, and name a factor for uplifting thereof. And found, that after such an establishment, any of the heritors may be proceeded against for their proportions, notwithstanding that the process must sist as to others, in respect of their privilege of Parliament. But found that the pursuer cannot claim any thing for bygones since his entry, or by the act of the presbytery, in respect it was not decerned by the presbytery. See MANSE.

Forbes, p. 582.

SECT. IV.

Form of Designation.

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1626. July 5.

L. KERSE *against* REID, Minister.

The Lords sustained the designation of a glebe, altho' it was not measured, because the designation bore that the mea-

IN a suspension raised by the L. of Kerse, against Mr Andrew Reid, minister at Alva, for his manse and glebe, the LORDS sustained a designation of the glebe, albeit the same was not mett nor measured, to be four acres of land ; because the designation bore, ' That the metting was hindered by the servants ' of the L. Kerse, who boasted the metster, and would not suffer the commis- ' sioner appointed to design, to use the order of metting, required by the act

‘ of Parliament ;’ and whereby they were forced to make the designation of the glebe without metting, according to their estimation of the land especially bounded within the designation, which they esteemed to be within, and not to exceed four acres ; neither did the suspender allege, that the same exceeded four acres ; and the LORDS also found, that there was no necessity to prove that the metting was hindered, as said is, by witnesses, or otherwise than by the designation itself, which reported and bore the same ; and which they found sufficient to prove it ; and, in respect thereof, sustained the same without any other necessity of probation. THE LORDS also would not admit the allegiance of improbation of the said designation, which the suspender proponed in this process ; and would not receive improbation of the same by way of exception, seeing thereby ministers might be in the like cases prejudged in their bruiking of their glebes, if this should be admitted, for the same might and would ever be proponed against them ; but reserved to the suspender his action, to call and improve the same *prout de jure*. In this process also, the LORDS found an allegiance proponed for the minister relevant, bearing, ‘ That the glebe-land ‘ controverted was kirk-land, in so far as the Abbots of Cambuskenneth had ‘ received yearly these thirty years bypast together, twenty shillings,’ as the duty of these same lands from the suspender and his predecessors, which receipt of duty that space the LORDS found sufficient, being proved, to infer that the same was kirk-land, without any other qualification ; and in respect thereof, they repelled the reason, bearing, ‘ That the suspender was infeft in the ‘ barony of Alva, holden of the king ; and that this land has ever been ‘ bruiked these many ages past all memory of man, as a special part of his barony,’ in all the particular parcels whereof he cannot be *per expressum* infeft, but may bruik the same that way, as part and pertinent ; which was repelled, in respect of the foresaid reply, consisting only in the paying of the said duty to the Abbot thirty years. THE LORDS also sustained this other exception proponed for the minister against this reason, viz. That the same land was mortified to the Abbacy of Cambuskenneth by one Stirling, which mortification was confirmed by the King ; which allegiance was also sustained and admitted *per se*, as a several exception ; and found no necessity that the minister should with the mortification allege also, that some possession was had of that land by the Abbot since the mortification or confirmation ; neither was it found necessary that he should allege, that that person, viz. ——— Stirling, who mortified the land, was heritor of the same, and had right thereto, whereby he might validly and lawfully mortify it ; or that the suspender’s right to the lands of Alva, flowed from the said ——— Stirling, and that he had been author in the same to the suspender ; without one of which had been alleged, and joined with the mortification, the suspender *contended*, that the naked mortification, done by one who had no right to the lands mortified, and lying ever obscure, and never heard of these many ages, and never taking effect by any possession since the date thereof, could never take away the suspender’s heritable right,

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suing was hindered by the defender’s servants who threatened the measurer.

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