

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.*