

1665. *January 25.* PARSON of DYSART *against* WATSON.

ANDERSON, parson of Dysart, having a designation of four acres of John Watson's land, which was bishop's land, charges him to remove. Watson suspends on this reason, that there are parson's lands in the parish more ewest to the kirk, and lying about the parson's manse, and therefore, according to the order of the act of Parliament anent designation of glebes, the parson's lands must be designed in the first place, before the defender's lands, which are bishop's lands.—It is *answered* for the charger, That the parson's lands were feued out before the said act of Parliament, and are all built with houses incorporated within the town of Dysart.—It was *answered*, That the said act of Parliament bears, that the parson's lands shall be first designed, although they be feued out before.

Which the LORDS found relevant, and ordained the parson's lands to be cognosced, what quantity was wanting thereof to be made out of the bishop's land.

*Fol. Dic. v. I. p. 352. Stair, v. I. p. 254.*

1678. *February 6.* THE LORD FORRET *against* MATTERS.

THE Lord Forret pursues reduction of a designation of a glebe to the kirk of Coult, on this reason, that there were kirk-lands in the parish, which, by the act anent glebes, ought to have been designed before temporal lands, and yet this designation was out of temporal lands now belonging to the pursuer; and condescends upon Hospital-miln, and offers to prove that it is either lands which did belong to the Trinity-College, or to an hospital, or *maison de Dieu*.—It was *answered*, That this glebe was long since designed, and the minister is *decennalis et triennalis possessor*, and needs not instruct his title, which is presumed *omni meliori modo*, as mortified or designed by the then heritors consent, and that hospital-lands were no kirk-lands.—It was *replied*, That though the 13 years possession presumes a title, yet *presumptio cedit veritati*, and the designation is produced; *2do*. The minister hath no detriment, for he and the heritor of hospital-miln are called by the Lords' warrant, who would not suffer this designation to be quarrelled till the minister might be secured in another, by calling the heritor of the other land.

THE LORDS found, That the minister had no prejudice, and therefore could not exclude this pursuit upon his 13 years possession; and found the reason relevant, that there were kirk-lands belonging to a collegiate kirk in the parish, and granted incident for production thereof, declaring, that if upon production the lands appeared to have been hospital-lands, the LORDS would then consider, whether that hospital-lands should be designed before temporal-lands.

*Stair, v. 2. p. 610.*

No 18.

The designation of glebes must be out of parson's before bishop's lands.

No 19.

Question, not decided, whether hospital-lands ought to be designed before temporal-lands.