

1671. December 12. M'JORIE against HERITORS of Carloverock.

No 6.

A manse being valued without warrant from the bishop, the valuation was found null.

WILLIAM M'JORIE, as executor to his father, pursues the Heritors of Carloverock for the value of the manse valued by three ministers of the presbytery. The defenders *alleged*, That the valuation is not sufficient, not being done by the bishop, conform to the warrant of the act of Parliament, it being very exorbitant. It was *answered*, That the ministers of that place were not free to act by the bishop's warrant, but did all quit their charge, and this valuation was shortly after the bishop's coming in. *2do*, This valuation was shortly after the death of Bishop Fairfowl, and before the entry of Bishop Burnet, *sede vacante*.

THE LORDS repelled both these allegiances, and found no process upon this valuation, albeit the consent of the bishop was offered to be obtained.

Stair, v. 2. p. 22.

1712. January 31.

STEELE against His PARISHIONERS.

No 7.

IN a suspension of a presbytery's decret for building a manse, the LORDS found as follows, *viz.* *1mo*, That by act 21st, Parl. 1663, the minister and tradesmen may proceed, though the heritors be absent or withdraw being cited, the minister having no other compulsitor to bring them, save an intimation from the pulpit the Lord's day preceding; but that the tradesmen, their being parishioners, will not supply that clause of the act, requiring two or three of the most discreet men in the parish to be also present to assist and judge of the tradesmens' schemes and estimates, who must be over and above the tradesmen themselves, who would be very unfit to restrict and limit their own work. *2do*, They found, That the ministers, by our law, are empowered to proceed to liquidate the value and price of the manse, not exceeding L. 1000 Scots, and likewise to choose the most convenient place for its situation near the church, with a suitable glebe, with grass or foggage for his horse and cows, and also to cast and proportion the sum liquidated upon the heritors, and to name a factor or collector for uplifting and debursing it. *3tio*, They found, That the rule of the cast must not be the real rent (which would put ministers to a long probation, and occasion many great debates) but the valued rent extracted out of the cess-books. *4to*, They found, That though some of the heritors were dead, and others had the privilege of members of Parliament, yet this would not sist process as to others.

Fol. Dic. v. 1. p. 565. Fount. Forbes.

* * This case is No 7. p. 5131, *voce* GLEBE.