

by interlocutor, that the judge might supply the absence of the said person, and put another in his place, and so gave command to do the same, and granted the desire of the bill; *licet nonnulli in contraria,*" &c.

No. 8.

*Fol. Dic. v. 2. p. 370. Colvil MS. p. 359.*

1586. June. KING'S ADVOCATE *against* MONCUR.

No. 9.

IN an action of reduction of a retour pursued at the instance of the King's advocate, and George Moncur, son to Captain David Moncur, against George Moncur, son to George Moncur, it was found by the Lords, that a party being summoned to pass upon an inquest and service of a brieve, and thereafter disobeying, may be put to the horn at the head burgh of the shire, incontinently, where the service of the brieve is used, notwithstanding of the act of Parliament, and practice daily observed, that a person should be denounced rebel at the head burgh of the shire where he remains.

*Fol. Dic. v. 2. p. 370. Colvil MS. p. 407.*

1595. February 24. ARCHIBALD OGILVIE *against* BAILIES of DUNDEE.

No. 10.

AN breve beand proclomit to ane certane day, may on na wayis be continewit be the judge to ane uther day, without consent of partie: And gif the judge proceed to the serving thairof, at the day to the quhilk it was continewit by him al-lanerlie, the service, and all that follows thairupon, is null and of nane avail.

*Fol. Dic. v. 2. p. 370. Balfour, (BRIEVES) p. 419.*

1629. July 22. EARL of CASSILLIS *against* EARL of Wigton.

No. 11.

IN a supplication for assessors to a service of the Earl of Cassillis, the Lords being consulted by the assessors in these points, which were controverted betwixt the parties, they declared and advised as follows: viz. In a general service of the Earl of Cassillis' fore-grand-sir's grand-sir; they found, that the assessors might serve, and the judge also put it to the trial of an inquest, the parties claim bearing, that the predecessor to whom he desired to be served general heir died at the faith of King James III. or of some of his successors, kings reigning for the time; which claim the Lords thought to be relevant, albeit the same bore not *specifice*, in which king's time that predecessor died precisely, which was not proveable *in facto tam antiquo*, neither necessary to be precisely proven, but was enough that it should be

Unnecessary to specify the particular king at whose faith the party died.

Intermediate descents must be particularized.