

the term after diligence will be prorogated at the parties' desire. Also the LORDS found, that this pursuer had sufficient interest to reduce this retour and service, albeit he was not nearest of blood to that party to whom the defender was served heir, if that service were reduced, and although the person served heir were a bastard, seeing there were bairns on life begotten in lawful marriage, of the other daughter of the said umquhile L. Pitsligo, and who would ever be preferred to this pursuer, being nearer in blood than he; likeas there is one gotten of that marriage served and retoured heir to the said umquhile goodsire, and whereby the defender *alleged*, that this pursuer had no interest to reduce that service; which allegiance was repelled, and the said pursuer was found to have interest to reduce the said retour, albeit he was not nearest of kin to the defunct, seeing he was infest, and in possession of the lands of Pitsligo, and his father and goodsire before him, whose right might be drawn in question by that retour and service; likeas thereupon action of reduction and improbation was intended at their instance against him, for production of his evidents of the said lands; and whereby the LORDS found, that he had interest to reduce the said service, which was the ground of the pursuit intended against him. See *JUS TERTII*.

No 111.

Act. *Advocatus, Nicolson & Morvat.*Alt. *Stuart & Lawrie.*Clerk, *Gibson.**Fol. Dic. v. I. p. 496. Durie, p. 534.*1687. *July.* MARGARET CALLENDAR *against* JOHN BOWAY.

THOUGH by the sixth act, Parliament 20. James VI., the Commissaries of Edinburgh are appointed sole judges to the reduction of inferior Commissaries' decreets, yet the LORDS advocated, *ob contingentiam causæ*, the reduction of a decret dative *ad omisssa*, pronounced by the Commissary of Stirling, in respect some of the sums omitted were produced before the session by the obtainer of the dative.

No 112.

*Fol. Dic. v. I. p. 496. Harcarse, (ADJUDICATIONS.) No 17. p. 5.*1707. *March 4.*

WILLIAM ALVIS, Sheriff-depute of Dumfries, and JOHN LANRICK, his Fiscal, *against* GEORGE MAXWELL of Dalswinton.

JOHN KELLY, sheriff-officer, coming to Dalswinton's house to give him a citation to the sheriff-court, at the instance of one Maxwell, for payment of a civil debt, Dalswinton calling for his act of admission, and he answering, he had served many years in that office, and needed not carry it always about him, Dalswinton imprisoned him for some hours, and then convening his te-

No 113.
The Lords are not judges competent to riots, batteries, or blood-wits, in the first instance.