

SERVICE OF HEIRS.

SECT. I.

What Court competent to serve?—Service MORE BURGL.

1589. *March.* CARMICHAEL *against* EARL of ANGUS.

THE Laird Ballandie Carmichael obtained a commission to the four ordinary macers, to serve a brieve within the tolbooth of Edinburgh, which was raised by him to serve him nearest and lawful heir-male to umquhile Peter Carmichael, in the lands of Craigpetie, lying within the regality of Abernethy. The cause of the commission was alleged to be, that William, Earl of Angus, who was superior of the said Laird, pretended right and interest to the property of the said lands, and so albeit the lands lay within the regality of Abernethy, and that the service of brieves appertained directly to come forth of the Chancery of the regality; and therefore, because the Lord of the regality had interest to the property of the lands, and would be both judge and party, the commission was granted in manner foresaid. The Earl of Angus having meaned him by a supplication, that albeit he claimed interest to the property of the lands, yet he ought not to have been prejudged in his privilege of regality, but that the brieve ought to have been direct forth of the Chancery, and he to have given judges unsuspected to have sitten and and cognosced thereintill; the Lords found, that in so far as he claimed interest to the property of the lands, he nor his deputes could not be judges in the service of the brieves; and therefore ordained the commission to stand.

Fol. Dic. v. 2. p. 370. Colvil, MS. p. 450.

1627. *March 17.*
EARL of LAUDERDALE, *against* LAIRD of CRAIGHALL and LEE of Broadwood.

A PARTY being infeft in land, and he and his authors long in possession, to which land another party pretended right, intending to serve himself heir to some of his predecessors of the said land, the party infeft and in possession obtains a de-

No. 1.
Service of brieves of lands in a Regality, if the Lord thereof have any claim to the lands, should be by commission to the macers or others, notwithstanding the Lord of Regality's privilege.

No. 2.