

1630. July 13. LAIRD of PITSLIGO *against* DAVIDSON.

No 29.

THE Laird of Pitsligo intents reduction of a retour, whereby Alexander Davidson is served heir of the heirs portioners of line to umquhile Laird Pitsligo's goodsire. It was *alleged* by Alexander, That the Laird of Pitsligo had no interest to pursue reduction of the general service, which is not a service to any land, but a general service, declaring the nearest of blood, except the pursuer would allege he were nearer of blood than the defender. To which it was *answered*, That seeing by his service he was to quarrel the lands of Pitsligo, wherein this Laird stood infest, likeas he has already intented action thereanent, he had very good action to reduce the said retour, which was the ground whereby the defender was to impugn the right of his lands; which reply the LORDS sustained.

Auchinleck, MS. p. 187.

1630. July 24. Sir JOHN SCOT, Supplicant.

THIS day Sir John Scot gave in a supplication to the Lords, making mention, That all summons of error and reduction of retours, has been by ancient custom used to be expedie at the chancellery, and written in Latin, and under the quarter seal, whereas now lately many are written in Scots, by the ordinary writers to the signet, albeit there is an express act of Parliament, ordaining, that the order of the chancellery should not be broken; therefore he desired the Lords to make an act in their sederunt books, that no summons of reduction of any retour should be expedie, but as said is, in Latin, and in parchment, under the quarter seal, and by the director of the chancellery, his deputes and servants, and that no process should be granted in time coming upon any summons otherwise raised. THE LORDS ordained this to be done, and found, that the same ought to be observed in all summonses for reducing of retours, which were principally called to be reduced, but not where other writs were principally to be reduced, and retours to fall in consequence; and where retours were called principally to be reduced, they thought the said order should be kept, albeit the summons concluded no error, and albeit the persons assizers were neither desired to be punished for wilful error, nor yet that they were called in the process, but only that the pursuer desired the retour to be reduced against the direct party served, or some representing him; for the LORDS found, that such actions concerned the assizers, who, albeit they were not pursued to be punished for wilful error; yet by act of Parliament, there is ignorance alleageable against them, and so for ignorance their deed being quarrelled, the same ought to be tried by order of the chancellery anciently

No 30.
Formalities of
a summons of
error and re-
duction of
retours.