

REDUCTION.

13501

the party, seeing he had deduced comprising thereon, and so could not be reduced for not production; and in that sentence reductive, the bond was not called for to be reduced, but only the comprising, neither was there any reason libelled against the bond, but only against the comprising, and therefore the transferring was sustained as said is.

No 23.

Clerk, Hay.

Durie, p. 477.

1630. February 5. KINGHORN against STRANG.

UMQUHILE Sir John Campbell of Lundie having obtained the gift of non-entry of the lands of Pittedie, appertaining to John Lord Glamis, John Campbell, his son and heir retoured, makes assignation of this gift to Robert Strang 1584, which Robert obtained declarator thereupon, and compriseth the same lands for the bygone non-entry duties. The Earl of Kinghorn intended a reduction of this comprising, with all that had proceeded, against George Strang, heir to Robert. In the reduction, *alleged*, The defender should not produce the assignation made by John Campbell to Robert Strang, neither yet John's retour, whereby he was served heir to his father Sir John, in respect that the pursuer derived no right from them. *Replied*, They being a ground of the comprising sought to be reduced, he had good interest to call for them to that effect. *Duplied*, He had libelled no reason against them, and so no necessity to produce them. *Triplied*, He had a reason of improbation libelled against the whole writs called for. THE LORDS found the defender should not be obliged to produce the said retour and assignation after so long a time.

No 24.
Found not necessary to produce as a title, a retour and assignation of old date.

Spottiswood, (REDUCTION.) p. 270.

1630. March 3. ORD against COUPER.

IN the reduction of a decret obtained by a party, who thereafter had deduced himself, and transferred the said decret in the person of another, which person had, upon his transferring, used all ordinary execution of horning and caption at his own instance; the first party obtainer of the said decret needed not to be summoned.

No 25.

Auchinleck, MS. p. 185.

1630. March 5. EARL of WIGTON against EARL of CASSILLIS.

IN an action of reduction and improbation pursued by the Earl of Wigton against the Earl of Cassillis, for reducing of all rights made by the pursuer's

No 26.
Found sufficient for the pursuer to prove *cum*