

REDUCTION.

13505

proceeded upon the resignation of any of Celestine's descendants libelled, &c. they should produce them.

No 32.

Spottiswood, (REGALITY.) p. 271.

. Durie's report is No 42. p. 6636., *voce* IMPROBATION.

1663. *January 16.* ELLIOT *against* RIDDEL.

ARCHIBALD ELLIOT of Medlestaid, wadset his lands to John Riddel of Muiseily, for a sum of money under reversion, and with a clause irritant, bearing, That if precisely at the term the money should not be paid, in that case, the reversion to be null; whereupon a declarator is obtained for not payment, before the English Judges. There is a reduction pursued of this decret, upon this ground, That he was not compearing in this decret; and though in the minutes of process he was marked compearing by his procurator, to whom a day was assigned for purging the failzie, yet at that time he could not compear, because he was lying bedfast; and it were against reason, that the defender by his calamity, should be under such disadvantage, the lands being near double worth the money.

No 33.
Reduction of a decree of the English judge, who had declared an irritancy while the party was prevented by sickness from appearing personally.

THE LORDS found the reason of reduction relevant, in respect of the condition of the pursuer for the time, by sickness, and of the exorbitant advantage the defender would have, if the decret should stand.

Gilmour, No 64. p. 48.

1665. *December 15.*

GRANTS and ROW *against* VISCOUNT of STORMONT.

DAVID VISCOUNT of Stormont having obtained a decret of reduction against Grants, of their right of certain lands, for not production. Grants and ——— Row, did reduce the said decret against ———, now VISCOUNT of Stormont, upon production of the rights called for in the first decret; and in this reduction, the LORDS did suffer and admit the said VISCOUNT to insist in the said first reduction, he producing the said David VISCOUNT of Stormont his right and instructing that he represents him; though the said first process was not transferred in the person of the said VISCOUNT *active*, and against the pursuers of this reduction *passive*; and the summons of reduction, whereupon the first decret proceeded, was not produced; which the LORDS allowed to be supplied by production of the decret, and a paper containing such reasons of reduction, as Stormont thought fit to give in; and that in respect it was the fault of the defenders in the reduction, that the writs were not then produced; and they and those having right from them be-

No 34.
Effect of production for non-production.