

REDUCTION.

13495

fuit factum partis et non iudicis. THE LORDS admitted the libel and reply. Darum hoc videbatur nonnullis Dominorum, cum de praxi nostra decreta semel lata in rem iudicatam transeunt, et paratam executionem habeant, sive bene sive male lata fuerunt, nec obstabat processus et inchoata reductionis intentio. THE LORDS therefore, notwithstanding of the admitting of the summons and reply, referred the modification of the profits to themselves, quia bona fide egisse videbatur is qui interposito iudicis decreto etiam invalide intromissit.

No 6.

Fol. Dic. v. 2. p. 327. Colvil, MS. p. 358.

1583. November.

SWAN against RANKIN.

SWAN pursued Rankin for reduction of a sasine of certain tenements in Glasgow. *Excepted* against the summons, That the pursuer could not crave the same to be reduced as was libelled, because the sasine made mention that it was given by virtue of award of court of the Provost and Bailies of Glasgow; which award of court should have been called *principaliter* to be reduced as well as the sasine which was relative to it. THE LORDS *una voce* assolizied a libello.

No 7.

Spottiswood, (REDUCTION.) p. 266.

* * * Colvil reports this case :

THERE was one called Swan that pursued one Rankin for production of a sasine of certain tenements of land within the town of Glasgow. It was *excepted* against the summons, That the pursuer could not pursue the reduction dictæ sasine prout libellatur, because the sasine made mention, and it was expressed in the same that it was given by virtue of award of court of the Provost and Bailies; and so it being relative to the said award of court, and making express mention of the same, except it had been called *principaliter* to be reduced as well as the sasine's self, the libel could not infer or conclude upon any reduction of the said sasine, and that namely when the said award was instantly produced before the Lords. THE LORDS, *una voce dicentes*, pronounced *definitive*, and assolizied *ut libellabatur*, that where any evident is called to be reduced, that all others to which it is relative must also be called.

Colvil, MS. p. 381.

Earl of MAR against My Lord ELPHINGSTON.

ALLEGED, No process, because all parties having interest are not summoned, viz. my Lady Kildrummy, who is infert publicly in the lands libelled holding of King. *Replied*, Not competent to the the defender, seeing she is not author

No 8.