And Authors, and Diligences against the Havers thereof t
end that all rights either party pretend to may be in the fie
before they come to Dispute the Reasons of Reduction &
ibid. $16. In Act, called an Act for production, and not
libel of Lis contestation is Extracted. Yea Litis contestat
seldom happens in Reductions Harr ibid. $8. & 10. And
never Made, unless possession or prescription be Libell
or founded on in initio litis which would Reason a Compl
libel of Production and Litis Contestation. And then prefe
or Recent possession Must be proved; and the proof of pos
on carried as far up as ordinary Memory & the Heav
will infer the presumption of Ancient possessio
and the Continuation of it unless Interruption be sh
or the Defender Made appear that he had produced h
sufficiently to exclude the pursuit Harr ibid. $8.

At Calling of which bel after Elapsing of the ho
if none of the Writs Called for, or only some of them a
produced, Certification is Granted contra Non produc
Which decreet of Certification is effectuall to secure t
obtainer from Accounting for the fruits and profits
what the Tillan's possession of thereby (tho Intromitted w
after a summons of Reduction thereof) any bill he be p
in Mala fide by production of Writs sufficient to
duce the Certification. But Certification can be granted
against writs of which there is a Relevant Reason of R
=tion Libelled: because no Man is bound to produce
Writs, except to a person Interested to quarrel them;
and where no reason is Libelled, the pursuer is Under Hoo
to have no Interest to call for them. Therefore General
Reasons against all the writs called for, as their being
Dilated in Substantialibus, wanting writers name and
=nesses &c. are at first Libelled; and, after the production
is Satisfyed, the pursuer is allowed to add Special Reason
against the Writs produced.

It is a Relevant Defence against Certification
contra non producta that the Defender hath produced
rights sufficient to exclude the pursuers title. As Reductio
was excluded by production of the Defenders fathers Infef
ment in the Lands in Question Anterior to the Pursuers
Infeftment, to which father he might be served Heir m
those Lands, without Necessity to Instruct that the Defende
used Actually Served Heir to his father Nor was the pursue
Reply upon his own predecessors Infeftments anterior to the
Infeftment produced by the Defender; Sic Land to afford him
Certification against the Defender, Unless he the pursuer
could Instantly Verify his being Served Heir to that prede=
=cessor upon whose Infeftment he Craves Certification, that
being his Active Title, which ought to be Instructed at least
before the defender is put to any further production; the the
Defenders being Heir apparent is sufficient to exclude further
production 13 July 1680 L. Strowan Contra M. Athole.
Certification will be Granted contra Non producta tho the
Defender can Exclude the pursuers title in Plantation by
Writs produced. And he will not be allowed for Happyaring
his right to prove forty Years possession thereby. For Pre=
=scription is not Competent to be Alledged in that Place of
the process, which would Lead the pursuer into a Act of Litis
contestation, while he is ready in Act for production,
and can be obliged to Debate only upon Excluding in the
terms thereof 25 January 1709 Campbell of Carson contra Grazer
of Boons 19 January 1672 D. Drumsherry contra M'Gachan.
After Clearing of parties, it be found that the Defender
hath not produced sufficiently, he may Make a further
production of all he Designs to Make use of in the cause,
and dispute upon it. But he will not be heard thereafter
to Dispute upon any further production but the production
be Closed 7 December 1667 E. of Sinclair & Sinclair contra
Biggar. Either by the pursuers Lodging Ut Lis fyed, or by
a Decreet of Certification contra Non producta. That the
pursuer be not delayed by Disputing upon every single
Writ. Extracts of writs Recorded in Inferior Court books will
Satisfy the production, and Certification to be granted.
But the Extract of a Disposition Registred at that time
when the principal writs were given back to the parties,
=wed not sustained to stop Certification without produ=
=cing the principal Disposition 3 December 1666 Pringle
=gular contra Lyon of Muirhall. Nor will Extracts of
Hornings, Inhibitions or Seasins stop Certification, be=
=cause the Principals are not left at the Register office
Harr Lib. 4 Tit. 20 $21 M Kenzie observes on act 94 Parl. 6.
J. 6. But the Clerks Oath against the use of the Horning,
Yet the Kings Donatary is not obliged to produce the
Principal Horning, that he may not be Injured by Col
=lusion betwixt the Debtor and the Creditor M'Dowall Sup
=plem