

be denied, but he has used horning.—*Duplied*, If he had immediately prosecute the charge, there might be some pretence to found this reduction; but he was so far *in mora* that the denunciation and registration was ten or eleven months posterior to the charge, and their rights intervened.—*Triplied*, Any time within the year was sufficient, no law requiring a denunciation sooner; and, by many decisions, rights after a charge of horning (though prior to the denunciation) have been reduced as in defraud, 12th February 1675, Vietch *contra* the Executors of Ker and Pallat, No 127. p. 1029.; 18th July 1677, Murray of Keillor against Drummond, No 139. p. 1048.; January 1681, Bathgate *contra* Bowdoun, No 140. p. 1049.; and in the case of Cockburn's creditors, (*infra*, *b. t.*)  
 —THE LORDS considered, That a charge of horning was a foundation either for affecting the personal or heritable estate of the debtor; and that a charge of horning satisfied the terms of the act of Parliament; therefore they sustained Carridden's reduction, he proving Sir William's insolvency at that time, though his condition was not then so propoed as to make him holden and reputed a notour bankrupt, the standard being but lately fixed by the act of Parliament containing a notour bankrupt's marks and definition.

*Fol. Dic. v. 1. p. 77. Fountainball, v. 1. p. 796.*

No 136.

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SECT. V.

What Diligence sufficient to found Reduction upon the act 1621.

1621. December 12. JOHN RICHARDSON against JAMES ELTONE.

No 137.

A BANKRUPT *post fugam vel in fuga* may do no voluntary deed in prejudice of a creditor *que habit paratam executionem*. A decret of registration is found to be diligence, *quoad concreditorem* who has no decret, but a voluntary assignation.

*Kerse, (CREDITOR.) MS. verso of fol. 56.*

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1623. February 21. JAMES CRAW against DAVID and THOMAS PERSONE.

No 138.

THE LORDS found that bankrupt might be proven by a charge; and that thereafter he was denounced rebel; and that the assignation, made *medio temporis*, was null by the statute, except it be proven that it was upon an onerous cause.

*Kerse, (CREDITOR.) MS. verso of fol. 56.*