

may lawfully affect these when completed by denunciation. What is cited out of Spottiswood, is as little to the purpose; for there the acquirer of the voluntary right had not taken the same in security or payment of bygone debt, but for a price paid long after the reducer's apprising.

THE LORDS repelled the reason of reduction upon the act of Parliament 1621; in respect that, albeit the pursuer had used horning by a charge before the affignation, yet he had not connected and completed his diligence by denunciation for five months thereafter, No 149. p. 1057.

Fol. Dic. v. 1. p. 80. Forbes, p. 334.

No 164.

S E C T. IX.

Reduction of Preferences granted by means of Interposed Persons.

1682. February.

NEILSON *against* ROSS.

JOHN NEILSON, merchant in Edinburgh, having right to a comprising led against James Farquharson of Hollies, pursued a reduction of a disposition, made by him to Alexander Sutherland, of the lands, which by progress came in the person of Mr John Ross of Pendreich.—THE LORDS found, That in respect the pursuer's author had neglected to obtain a prior investment, or to have charged the superior upon the comprising, that the comprising being an incomplete right, the same could be no ground to reduce the voluntary right, in case the same had been *bona fide* acquired with ready money; but found, That if the said voluntary right was either a gratification or a voluntary preferring of one creditor to another, the same was reducible. And thereafter it being allowed by Sutherland, that by the contract by which the lands were disposed to him, he was obliged to make payment of the price of the lands to the creditors therein mentioned; the LORDS sustained the allegiance, that he made payment to the creditors before citation at the pursuer's instance, to assilzie him; reserving to the pursuer action of repetition against the co-creditor who received payment as accords.

Fol. Dic. v. 1. p. 81. Sir P. Home, MS. v. 1. No 148. p. 226.

* * * In the similar case, Grant of Kirdells against Birkenburn, No 32. p. 902. the disponee having paid debts after intending a reduction of his right, the LORDS refused to sustain these payments; but they found the defender, even after reduction was intended, might pay any debt he had undertaken before to pay.

No 165.

In a reduction of a disposition, as granted by a bankrupt after diligence, the defence was sustained, that the purchaser had paid, *bona fide*, and before citation in the reduction, a full price to creditors of the disponent, as taken bound in the disposition. Action was reserved, (as accords) against the creditors who had received payment.