

COMPENSATION—RETENTION.

S E C T. I.

Nature of Compensation.

1543. May 5. The QUEEN against The BISHOP of ABERDEEN.

THE LORDS decerned the B. of Aberdeen to answer before them, in a cause movit upon an obligation of his receipt of a certain sum of money borrowed be him at the King, Queen, and Laird of ——'s instance, as his donatar to the said debt, because that of the practiques of Scotland, as the Lords *alleged, et clerici in omnibus civilibus actionibus pro delictis quibuscunque regis debent coram dominis concilii reddere*. And attour, in the said cause, the LORDS *reducit* and decernit *exceptionem compensationis oppositam ex parte Epis. Abredo. de alia summa sibi per regem debita, et quod efferebatur liquide non admittend*. because of the practics, the exception had now na place, and was oft-times proponed before them in other causes, and not admitted; and swa *in causa compensationis liquentia coram dominis concilii in hoc regno locum non habent*.

Fol. Dic. v. I. p. 158. Sinclair, MS. p. 50.

*** Balfour reports the same case :

COMPENSATIOUN beand objectit be the defender, be way of exceptioun, in ony actioun or cause, sould not be admitted, albeit it be *de liquido in liquidum*; because, be the law of this realme, na exceptioun of compensatioun sould be admittit, bot actioun sould be reservit to the proponar thairof, to persew for the debt auchtand to him, as accordis of the law.

Balfour, (EXCEPTION.) p. 349.

No 1.

Of old no compensat on could be received by way of exception, although it had been *de liquido in liquido*, but action only reserved.