

were the present objection sustained, they would lose precisely the 10s. in the pound which has been paid of them out of his estate.

No 45.

THE LORD ORDINARY 'sustained the objection to the claim.'

On advising a reclaiming petition, with answers, some of the Judges thought, that Laidlaw stood in the same situation as if he had got a letter of relief from Forrester and Company, on accepting the bills drawn by them, and that, as these bills had already ranked upon their estate, Laidlaw could not also rank for his promissory-notes.

A considerable majority were of an opposite opinion. The two sets of bills, (it was said), created two distinct debts; and as Forrester and Company derived the benefit of those accepted by Laidlaw, it was no bar to his ranking on their estate for their promissory-notes, that the holders of the bills accepted by him had also ranked upon it. In complicated cases of this sort, the object is, as far as possible, to preserve equality between the parties, which would not be done were the judgment of the Lord Ordinary adhered to. On this principle, however, it is equally clear, that Laidlaw's creditors ought to be allowed to draw no more from Forrester and Company's estate than what is sufficient to indemnify them.

It was also *observed*, that the case of Curtis was ill decided; and, accordingly, the decision has been since reversed by the House of Lords.

THE LORDS, 24th November 1795, repelled the objection to the petitioner's claim; and, on advising a reclaiming petition, with answers, they 'adhered.'

Lord Ordinary, *Mathuen*. For the Objector, *Hay, Walker Baird*. Alt. Mat. *Ross, Tai*.
Clerk, *Menzies*.

R. D. *Fal. Dic. v. 3. p. 145. Fac. Col. No 213. p. 502.*

* * * See *McGilchrist against Arthur, voce BANKRUPT, No 4. p. 877.*

S E C T. V.

Compensation, its Effect Relative to Onerous Assignees.

1610. February. MUIRHEAD and M'MITCHELL against MILLER.

IN an action of suspension, pursued by William Muirhead and Thomas M'Mitchell, burgesses of Edinburgh, against William Miller, as assignee to Alexander Williamson burgess of the said burgh, it was found that the debt owing by Alexander Williamson to the said pursuers ought to be received by way of compensation against the assignees.

No 46.

Kerse, MS. fol. 245.