

tinguishing *concurſus debiti et crediti*, which could not happen by his getting the money after John's deceaſe, which nothing but a legally eſtabliſhed title could effect.

THE LORDS found, That Mr Robert Stuart had no right of retention for his own payment; and that the Creditors of John Stuart ought to be preferred to his ſhare of the deposited money, according to the diligence uſed by them to affect the ſame.

*Fol. Dic. v. 1. p. 164. Forbes, p. 348.*

No 85.

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S E C T. XIII.

Real and Personal Rights, Whether Mutually Compensable.

1611. *March 23.*BUCHAN *against* SEATON.

IN an action betwixt Christian Buchan and Marion Seaton, anent the violent profits within burgh, THE LORDS admitted an exception of compensation against the wife for an annualrent, diſpoſed furth of the ſame land by her and her umquihil huſband.

The like betwixt William Napier and M'Murray.

*Kerse, MS. Fol. 245.*

No 86.

No 87.

A liquid ſum for a houſe mail cannot be ſuſpended upon compensation, founded upon the tenant's right of retention of any annualrent wherein he is infeft furth of the tenement, he having no decree for pointing the ground, nor personal liquid decree against the heritor or liferenter.

1611. *June 4.*AGNES HAMILTON *against* WILLIAM M'CARTENEY.

A liquidated decree for a houſe-mail cannot be ſuſpended by compensation founded upon the tenant's right of retention of an annualrent, wherein he is infeft furth of the tenement; he having no decree for pointing of the ground, nor personal liquid decree against the heritor or liferenter.

*Fol. Dic. v. 1. p. 165. Haddington, MS. No 2192.*

1629. *March 25.*E. BUCCLEUGH *against* YOUNG and KER.

THE Earl of Buccleugh purſuing redemption against Young, who had a redeemable wadset of him, mentioned, *voce* REDEMPTION; and in this redemption, one Ker, who was creditor to Young the wadsetter, had, for ſums owing to him by the ſaid Young, comprised the ſaid Young's right of wadset and infeftment, and who upon that comprising, had charged the Earl to enter him,

No 88.

A reverser having conſigned the wadset ſum upon an order of redemp-