

fore became creditor by other debts purchased, for which he had no other security than the other creditors; and in the competition the other creditors, in order to diminish his credit upon the escheat, having proponed compensation on the debts due by him to Sir Godfrey in 1683; Sir William proponed recompensation upon Sir Godfrey's debts last acquired by him, and which were not secured upon the liferent escheat. The Lord Ordinary first found that the compensation must operate betwixt those debts due by Sir William Maxwell in 1683, and such of Sir Godfrey's debts as thereafter came first into Sir William Maxwell's person; but having afterwards reported it, the Lords found that compensation being proponed against the debts, for which Sir William had security on the liferent escheat, he may recompence on any other debts in his person prior to the proponing the compensation; and upon a reclaiming bill, it appearing that Sir William had already proponed recompensation in part upon three debts secured on the escheat, which was sustained and decret extracted, they found that that decret must stand; but as to the balance remaining of the debts due by Sir William, they adhered to their former interlocutor. *Vide* 9th November, 1739, Forbes against Innes, *voce* INDEFINITE PAYMENT.—N. B. The Lords thought a debtor of a bankrupt cannot compense on debts of the bankrupt acquired after the bankruptcy, but the point not being argued, they remitted it to the Ordinary. (See DICT. No. 7. p. 2550.)

No. 6.

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1742. *February* 26. EARL STRATHMORE *against* EARL of ABOYNE.

No. 7.

THE heir being pursued for a debt of the defuncts, may propone compensation on a moveable debt due to the said defunct without confirming it. (See DICT. No. 33. p. 2573.)

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1742. *December* 7. CREDITORS of KINSTERIE *against* ROSS of Kilravock.

No. 8.

COMPENSATION being pleaded against an assignee, he may recompence by debts due to his cedent, though not assigned to him, and may compense by what debts he purchases, so as to preserve entire a debt secured by inhibition. And the cedent, who was creditor by a debt so secured, and debtor by other debts, being also cautioner for his debtor now *lapsus*, may retain the debts due by him for relief of his whole engagements as cautioner, and is not obliged to suffer these debts due by him to be applied to extinguish the

No. 8. debt due to him; and that though the common debtor was also cautionet for him in sundry debts, which was no security, the common debtor being *lapsus*; and the same thing was found competent to his assignee. (See DICT. No. 18. p. 2563.)

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No. 9. 1742. December 9. CREDITORS of PATERSON *against* M'AULAY.

COMPENSATION of debts purchased after decret *in foro*, repelled. (See DICT. No. 110. p. 2646.)

See Mansfield *against* Buchanan, 18th November 1738, *voce* BILL OF EXCHANGE.

See M'Culloch *against* Ross, 22d January 1752, *voce* ADJUDICATION.

See NOTES.