

tinguishing *concurus 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.

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 umquhil husband.

The like betwixt William Napier and M'Murray.

Kerse, MS. Fol. 245.

No 86.

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

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

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

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 infest furth of the tenement, he having no decret for pointing the ground, nor personal liquid decret against the heritor or liferenter.

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 infestment, 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-