

## B L A N K   W R I T.

### S E C T.   I.

#### How far the granting of a Blank Writ Implies Renunciation of Exceptions.

1681. *January.*      ROBERT GRANT *against* M<sup>c</sup>INTOSH.

No 1.

THE granting of a blank bond found to be a passing from all grounds of compensation competent to the debtor before the date of the bond, but not for those emerging thereafter.

*Fol. Dic. v. 1. p. 103. Harcarse, (COMPENSATION.) No 265. p. 63.*

1668. *February 27.*      DAVID HENDERSON *against* MR ANDREW BIRNIE.

No 2.

MR ANDREW BIRNIE having granted a bond to Alexander Short, blank in the creditor's name, he, for an equivalent cause, delivered the same to David Henderfon, who filled up his name therein, and charged Mr Andrew therefor; he suspended on a reason of compensation, upon a debt owing to him by Short, to whom he delivered the blank bond, for whom he became cautioner before he granted the bond, and paid the debt, partly before, and partly after this bond; so that Henderfon, by filling up his name, being assignee, and Short cedent, payment or compensation against the cedent, before the assignation, is relevant against the assignee. It was *answered*, That, in this case, compensation is not relevant, because the very delivery of a bond, in a blank creditor's name, imports that the receiver thereof may put in any man's name he will, and he may never make use of compensation against him whose name is filled up; otherwise why should the creditor's name have been left blank, which, if it had been filled up, it behoved to have had an assignation, which is but a procuratory *in rem suam*, so that the procurator can be in no better state than the constituent; but the blank makes the person filled up creditor principally.

Found, that compensation could not be objected against a possessor of a blank bond, upon a debt of the original creditor.

THE LORDS found compensation not relevant against a person whose name was filled up in the blank, being a singular successor to him, who first received the bond. See COMPENSATION.

*Fol. Dic. v. 1. p. 103. Stair, v. 1. p. 538.*