

was further *alleged*, That, though the father's solvency should not be proven, yet Grant's adjudication cannot be preferred; because it is null, being for the Laird of Grant's behoof; who, before deducing thereof, had entered to possession of the wadset, and thereby was satisfied: At the least, he ought to have compensated, and deduced the rents of the wadset lands.—It was *answered*, That Grant had entered to the void possession, relinquished by the wadfetter's heir; which he might do, both because the wadset was in *non-entry*, and because, by the late act of Parliament, 1661, between debtor and creditor, he might enter into the wadset. *2do*, No man is obliged to compensate against himself; nor can compensation take effect, but when it is proponed; and, though compensation might now be allowed against the adjudication, yet it will not annul the same; nor can it be sustained, further than what is liquid, and instantly verified; which is the annualrent of the wadset sum, and not of the wadset land, which must abide probation.

THE LORDS found the adjudication valid; and that the adjudger was not obliged to deduce, upon sums compensible, unless compensation had been proponed; but sustained the compensation, now to restrict the adjudication, for the annualrent of the wadset sum, and for the remainder of the rent of the wadset lands; if it were instantly verified and liquidated by writ, or the adjudger's oath; but found, That Grant had no right to the surplus-duty, nor to the *non-entry*, without *declarator*, or by the act of Parliament; without a sentence upon offer of caution to the wadsetters.

*Fol. Dic. v. 1. p. 9. Stair, v. 2. p. 773.*

1683. *January.* MR EDWARD WRIGHT *against* THE EARL OF ANNANDALE.

FOUND, That a comprising, led for a principal sum, and some bygone annualrents thereof, which had been paid, was not simply null; (though it could not expire, and the accumulation of annualrents, or necessary expences fall,) but did subsist, as a real security, for the principal, and current annualrents; and found, That though grounds of compensation, existing before leading of the apprising, and not applied, did lessen so much of the sums therein-contained; yet the apprising did subsist for the remainder, both *quoad* accumulations and expiring.

*Fol. Dic. v. 1. p. 9. Harcarfe, (COMPRISING.) No 283. p. 66.*

1683. *March.*

BAILLIE of Torwoodhead *against* FLORENCE GAIRDNER and his SON.

AN apprising, led by a father in his own name, for a sum payable to him in life, and to his children in fee; which he was empowered to uplift, and re-employ for their use, being quarrelled as null, upon these grounds: *1mo*, Twenty-nine

No 8.

No 9.

An apprising valid, notwithstanding of grounds of compensation against the appriser.

No 10.

An apprising was led by a father, for sums due to himself, in