

not prefer the assignee to the donatar, if the debt due to the rebel remained unsatisfied or extinct; but found, that such an assignee getting payment either from the rebel himself, or from any other by his precept or assignation was secure and not obliged to repeat the same to the donatar, and so preferred Brown and Pallat his donatar, in so far as Sir George Maxwell had made payment; but as to that point whether there was here equivalent to payment, by delivering up the first bonds granted by Stuart to Sanderson before Veitch's gifts, the LORDS inclined to find the same relevant; but that the manner of giving up the bonds might be known, did, before answer, ordain Sir George Maxwell to be examined upon oath *ex officio*, if Stuart's bonds were delivered to him, when and how.

No 53.

Fol. Dic. v. 1. p. 556. Stair, v. 2. p. 236.

* * See No 127. p. 1029. and No 159. p. 1073., *voce* BANKRUPT; No 91. p. 2874., *voce* COMPETITION; and No 13. p. 5083., *voce* GIFT OF ESCHEAT.

1676. December 19.

GRANT against LORD BANFF.

No 54.

A BLANK bond delivered by a rebel to one of his creditors after denunciation, but before declarator, in satisfaction of a debt due before rebellion, was sustained against the donatar of escheat.

Fol. Dic. v. 1. p. 556. Stair. Dirleton. Gosford.

* * This case is No 3. p. 1654., *voce* BLANK WRIT.

1677. November 21.

NICHOLAS and BURN, and their Factor, against The ARCHBISHOP of Glasgow.

No 55.

TARBOT being debtor to Hector M'Kenzie, suspends on double-poining against an arrester and assignee. The Archbishop *alleged*, That though his arrestment was posterior to the intimation of the assignation, yet, he denouncing Hector before the making the assignation, he could not make it to his prejudice. THE LORDS preferred Nicholas, &c. assignees, because their assignation was for satisfaction of a just debt, whereupon prior diligence by denunciation was done before the Archbishop's.

Fol. Dic. v. 1. p. 556. Fountainball, MS.

* * Stair's report of this case is No 152. p. 1060, *voce* BANKRUPT.