

That the Receipts of the Creditors would have remained in the Purchaser's hand, but they would have been given up to the Seller 10<sup>th</sup> Decem.  
 1713 *Hallyburton of Proccerance contra Cook*. The Lord had formerly decided otherwise 26 July 1711 *Inter Eodem*. But the simple making of Discharges of Debt is not a sufficient ground to infer that the money paid it contrary to the tenor of the discharges. Thus Discharges taken by a Tenant of Debt owing by his master to a third person, were not taken to the tenant in his accounts; in respect the Discharges bore they were to be received from the Master himself; albeit the tenant had done with these discharges a declaration *ex post facto* under the Creditors hand, that he was paid by the tenant 26 July 1711. *Nisbet of Dirleton contra Johnston* one of his *Correi debendi* by a Bone having paid several years Annual rents, and taken some Receipts of the Money by the Creditor from him for himself and in name and behalf of the other Coprincipal Debtor and some bearing only receipt there of from him, without the addition of for himself and in name and behalf of the other Coprincipal was found liable to the payer for the half of the sums in the latter Discharges, and for no proportion of the same in the former Discharges, it being presumed from the tenor of these that he advanced his share to the payer 27 Novemb. 1711 *Gordon of Troquhen contra Gie of Balmagie* one of several trustees of the Excise having purchased the Representative of one of his partners for payment of his share of 2005 pound 17 Shilling 9 pence Sterling advanced by the partner to the general Receiver in name of their back duty over and above the whole produce of the tax amounting only to 4899A pound two Shilling 8 pence where as the payments made by him to the Receiver extended to 51000 pound; and the pursuer for Instructing his Libel having produced a stated account of the produce of the Excise subscribed by him and the Defendants predecessors, and two discharges under the hand of the General Receiver, whereof one bore him to have received ~~of the~~ from the pursuer 25000 pound to account of his and his said Partners Excise back duty, and discharged them *pro tanto*, and the other bore him to have received from the pursuer and Subtacks men of the Excise and others, the sum of 26000 pound to account of his and his said partners back duty, and discharged them *pro tanto*: the Documents produced

Produce were found not Relevant to Oblige the Defendants to Make up the Balance pursued for. Because it was not very probable, that a man would have advanced before distress so considerable a sum out of his own Money for his Partners, without Order from him so to do, or without seeing a signification, or at least some Declaration from the Creditor for placing his Relief against the Partners, and would have also taken the Discharge as simple in favour of the said Partners, as off himself. And the stated account of the produce of the Excise was alleged to have been more less than the Real amount thereof, with a view to procure an abatement of their back duty from the Parliament 16 July 1719. *Menzies contra Johnston*. A Reply against an Execution upon a discharge of Debt pursued for, that it was given *Spe numeraria pecunie*, and the Money was never paid, it being proved by the Debtors call of *polowood* *pratt*, &c. Contracts and Obligations.

In the Roman Law there is a kind of Verbal Discharge of Debt, called *Acceptilatio*. Which is an acknowledgment of the Creditor, that he hath been paid his Debt, when in truth he hath not been paid it. It is called *Acceptilatio* from a *del* form of *Verbis* used therein, whereby a Debtor asks his Creditor *Quisquis es tale Stipulatus es Debeo. Scipulum per te?* to which the Creditor consenting to discharge him answers *Scipulum pro si*. *Inst. Quib. Mod. Sol. Oblig. l. 1.* as there is no formality of stipulation with us, and any acknowledgment of payment and satisfaction frees the Debtor. So we use more the term *Satisfactio*, than *Acceptilatio*, which had not the Effects of Real payment. Thus Acceptance of one right is satisfaction of another, *coll. Insult a Remission or Discharge of Debt* other 6 Decemb. 1632 *Chisholm contra Gordon* 23 June 1671 *Lady Bulligan contra Lord Drumlanrig*. A Woman who had done a Contract of Marriage accepted of a less sum in satisfaction of all she could claim, and discharged her Mother thereof. The Lady's acceptance of full Satisfaction was found to Import an obligation upon her to Surrender her self and assign the surplus in favour of the Mother. Being the discharge could not substitute the Mother to uplift the same from the Debtor; and it would be other wife left to both parties 13 Feb. 1663 *Stemmy and Gibson contra Tolmingorne Baird*.