By the persons who are Employed in Collecting the taxes. But
the other Debts which are not privileged, and which one owes to
the Fiscal or Exchequer, may be Compensated with what the Exchequer
owes to the same person. Thus if an estate fallen to the Crown
by Confiscation, by Default of heirs or by the Death of an Alien,
there be some of the Effects consisting in Debts, the Debtors whereof
are found to be likewise Creditors to the person to whom the
Estate did belong, Compensation of those Debts will be Allowed
l. 4 & 5 ff. de Jure Fisci. l. 12 l. 20 ff. de Compensat. 3 C. Eodem
Les Loix Civiles &c. Tom. 1 Part. 1 liv. 4 Tit. 2 Sect. 2 Art. 5. Com-
pensation was Sustained against Donatary of Escheat Upon a
Debt owing by the Rebell or outlaw before his outlawry, for
which the Compensater was Cautioner and Distressed 3 Feb. 1635
Innes contra Leslie 23 January 1669 Drummond contra Stir-
ling of Ardoch.

Compensation can only be Made betwixt persons who have
In their own Names the Double Quality of Creditor and De-
btor. A Debtor Exercises against his Creditor a right which
is not his own, as a Tutor does who demands a Debt due to his
Pupill; or an Attorney (Factor or Chamberlain) who Sues the Debtor of the person
who hath given him a power so to do; There will be no Compen-
sation Made of what the said Tutor or Attorney may owe
in their own Names to the said Debtors l. 23 ff. de Compens.
A factor cannot Compensate debts due by himself with
Debts owing to his Constituent 27 Decemb. 1711 Ferguson
contra Muir. He not being Creditor in these, which
Payable to the factor, might be uplifted and discharged by
his Constituent. Nor can a Tutor Compensate his own Debt
with those due to his Pupill. Thus Compensation of a Bond of
Borrowed Money was not Sustained to the Granters, upon
a debt due by the Creditor to their pupill, which they had no
Right to. Albeit they offered to prove by his Oath, that he
Borrowed the Money from him Upon the pupils Account
And the pupil then Major was Content to Apply her Debt
Extinguish the Bond: In Respect the Debtors in the bond
had no Assignation to the Debt owing to the pupill, and
their Creditor was not Concerned whose Use they Apply
His Money, but they Behoved to Satisfy their own
Debt

Debt, And seek their Relief from the pupil as Accords 29 June
1711 Eliot contra Eliots. Nor can a factor or Chamberlain re-
tain or Compensate his Constituents Effects Uplifted by him,
with any of the Constituents Debts assigned to him after the
Intromission 9 Novemb. 1672 Person contra Crichtown Alias
Murray. Because the Constituents effects are in his hand only as
a Servant or Depositary, who must Deliver up the Same Upon
Demand. But Compensation has Against factors & Chamberlains Upon
their Constituents Accounts, Stair tit. 1 Sect. 15 & 16 vers. Com-
pensation was
found Competent.

Compensation Must be Instantly Pleaded by way of Defence, Stair
tit. 1 Art. 12 §. 6. That is, if the Creditors Debt or Claim be
Instantly Instructed, the Debtor will not get a Term to prove his
Compensation. Which Must be the practice of Scotland, Nostra Decis.
99. But if a Term be Assigned to the pursuer to prove his Debt, the
same Term must be Allowed to the Defender to make good his Compen-
sation Trait de Lare, Tait Ed. by Wolf or oath of party or Even by
Witnesses if it be Known it Soon as the Debtor Pleads the
Proof. Stair ibid. This Compensation takes no place in the Inferior
Courts Execution L. 2 ff. de Compens. But Our Laws do not admit
Compensation after Execution or Reduction after sentence, Act. 141
Par. 12 §. 6. 12 Decemb. 1626. Viscount of Stormont contra
That is, after Decreet proceeding upon Citation. For Compensation
may be offered after Summary Decreet of Ejectment founded on
Clause of Registration in a bond or other Writ Condescended to by the
parties Their Hand. The Act Barring Compensation after Sentence Act
141 Relates to all Judges within Scotland. Sir George McKenzie (Observ.
on Act. 141) Insinuates, that our Custom Makes no distinction betwixt
Matter Actual Sentences of the Session, and those of Inferior Courts, viz.
That a Decreet of the Session, whether in foro contra Dictorio, or in Absence
Hinders Compensation to be Afterwards Received 25 July 1676 Wright
contra Stuart about the Reduction about Competent And Omitted has
Effect only as to Decreets in foro, and the Exception of payment is
Receivable against Decreets of the Session in absence: But that Com-
pensation is Generally Receivable against Decreets of Inferior Courts
in Absence; the not against those pronounced parte Comparente.
However I do not find this Distinguishing Doctrine concerning
Decreets of Inferior Judges, as Yet Sufficiently Cleared by Decisions
For albeit Compensation was Received in the Second Instance
by