

Have always the same Liberty of Applying the payment to Which so  
 Ever of the Debts he has a Mind to acquit. Because in the case of pay-  
 ment made and Accepted indefinitely the Debtors, is that Sum  
 It shall be Applied to. s. ff. de Solut. Even tho he should ascribe in  
 Satisfaction of a Bond where of the term of payment is not Come. 13 Feb. 1680  
 M. Rieth contra Campbell. His Case being favourable, and the Creditors  
 Indefinite Receipt to be interpreted against himself. But a Debtor not  
 Declaring his mind at the time he pays concerning the Application  
 Is no longer Allowed to make his Election thereafter than when he is  
 Able to pay all the Debts. For where a Debtor broke and turned  
 Prisoner after the indefinite payment, he gave he made his  
 Election, the same was not found applicable to a Sum he owes  
 to the Creditor, to whom another Sum  
 was resting, without Caution, which there by made him  
 s. ff. de Rem. 1680. M. Rieth contra Campbell. A Creditor by receiving  
 a Sum from the said principal and another as Cautioner having received  
 Principal Debtor was not Allowed to describe in post facto the Money re-  
 ceived in Satisfaction of the Vines, to the prejudice of the Cautioner. 22 Nov.  
 1687 Oswald of Fingleton contra Smith. Because payment by the prin-  
 cipal Debtor both for the Cautioner, and the Cautioner being One person  
 It is not in the power of the principal Debtor to make the Cautioner  
 liable against him without his own Consent, and if it were, the  
 wife, it should be in the power of all bankrupt Debtors to ruin  
 their Cautioners, by delivering back to their Creditors, retired  
 or discharges of Bonds where in Cautioners are bound, for getting  
 new credit for Sums advanced thereupon. Where payment is  
 Made by a person owing several Debts, without application to  
 any one of the Debts, It is imputed to Extinguish such Debt as  
 lies heaviest upon the Debtor and concerns him most to dis-  
 charge. s. ff. de Solut. So as to Extinguish Bonds bearing Annual  
 rent, appraisings or adjudications, rather than Simple tickets  
 without a Clause of Annual rent, or is applied to Extinguish a  
 Debt for which a Surety is bound, or for which the Debtor has  
 given a pawn rather than to acquit what the Debtor is  
 singly bound for without any Surety or Pawn. Or to dis-  
 charge a Debt of which the nonpayment would expose the Debtor  
 to

Go some penalty, rather than a Debt of which the nonpayment  
 Would not be attended with such a consequence? Debts again, that are  
 Clear and Liquid, or pure and Simple, or whose term of payment is already  
 Come, or which the payer owes in his own name as principal Debtor, are  
 Understood to be Satisfied before Debts that are Indivisible, or Conditional, or  
 Not yet due, or debts of Education, l. l. s. ff. de l. a. l. 97. s. ff. de Solut. l. 1. s. ff. de  
 Arbitr. if all Debts be upon the same footing the presumption of payment  
 lies against the old Debt, or payment is applied as imputed to an old Debt  
 before a New one. l. 97. c. 3. ff. de l. a. l. 97. s. ff. de l. a. l. 97. s. ff. de l. a. l. 97. s. ff. de l. a. l. 97.  
 Def. 16. A Julia having obliged herself personally by a Bond of Corrobor-  
 ation bearing Annual rent for a Sum as the Buy general Annual rent of an  
 Heritable House affecting her pupils Estate, upon getting at the same  
 time a Back Bond from the Creditor, insinuating personal Execution Against  
 Her self for some Sum, and receiving Discharge against the Pupils and  
 his Estate, so in the present Annual rents of all Sums due to the Creditor  
 by them were partially paid, and she was by reason upon the  
 Bond of Corroboration, s. ff. de l. a. l. 97. s. ff. de l. a. l. 97. s. ff. de l. a. l. 97. s. ff. de l. a. l. 97.  
 Debts she had a mind to discharge: These partial payments were  
 found applicable to the said Annual rent, and not to be imputed  
 in Satisfaction of the Annual rent of the great Sum which the  
 Buyer was liable for. s. ff. de l. a. l. 97. s. ff. de l. a. l. 97. s. ff. de l. a. l. 97. s. ff. de l. a. l. 97.  
 Contra Lady Spence contra Lady Spence. In respect the payer had made her  
 Election to have the Sums so applied to Extinguish the Bond of  
 Corroboration as the Summors for its being Annual rent,  
 Albeit the same stood Conditionally suspended as to Execution  
 for five years. but this privilege of the Debtor to Apply in-  
 definite payments made by him, towards the Extinguishing of  
 Debts he is most concerned to discharge is to be allowed cum grano  
 Salis. So as, it tend not to the Manifest prejudice of the Creditor.  
 Therefore where one who was Debtor by Bond bearing Annual  
 rent for the price of a parcel of black Cattle, and also Debtor for  
 the price of another parcel of such Cattle without Bond, had  
 Paid a Sum to the Creditor upon his Indefinite Receipt there-  
 of in part payment of Cattle bought from him: The Sum con-  
 tained in that Receipt was applied to the payment of black  
 Cattle bought by the Debtor within three years of the Date  
 there