

further than equity carries it, and equity could never refuse some consideration for the chance of the absolute loss of the money. No. 35.

But as all agreed that the practice of England was to be the rule in this case, and that the defender was no otherwise entitled to his relief than upon payment, the Lords, on the 12th July, 1745, “repelled the objection of usury, and unanimously found that the bond in question should only subsist for the principal sum and interest, and that upon payment thereof against the term of Whitsunday next, the same should be discharged; but in case payment were not then made, they decerned for the whole sum in the bond, the same being redeemable at any time by the defender upon payment of the principal sum and interest, and expenses hereafter incurred by the pursuer.”

Kilkerran, No. 4. p. 364.

* * D. Falconer’s report of this case is No. 23. p. 4894. *voce* FRAUD.

1753. *February 7.* SIR MICHAEL STEWART *against* EARL OF DUNDONALD.

No. 36.

William Cochrane, at a time when his elder brother, having two sons, was alive, who were all preferable in succession to the estate and honours of Dundonald, granted a bond to John Stewart, proceeding on a narrative of a certain sum advanced, and obliging himself to pay 100 guineas as soon as he or his heirs should succeed to the estate and dignities of Dundonald. The condition having been purified in the year 1725, and a process brought on the bond in the year 1745; the Lords found the bond void and null, reserving to the consideration of the Court, whether the money which had been advanced ought to be repaid, on proof of the amount.

Fac. Coll. Sel. Dec.

* * This case is No. 61. p. 9514. *voce* PACTUM ILLICITUM.

1760. *July 9.* SIR WILLIAM MAXWELL *against* JOHN PRINGLE.

Sir William Maxwell, when not quite major, purchased from Mr. Charles Murray two rings; for which he granted an obligation of the following tenor: He sets forth, That Mr. Murray had instantly sold and delivered to him two rings, in value upwards of £.40 Sterling; for which he binds himself, and his heirs, to pay to him 150 guineas at the first term after his marriage or death, with penalty and annual-rent after that term; and he farther binds himself to renew the bond after his majority, when required.

No. 37.

A minor gets two rings worth about 40l. and grants bond for 150 guineas, payable at the first