

was, that if Lord Mordaunt should die before his grandfather Earl Peterborrow, (who was then about 75 years,) or if in two months after Earl Peterborrow's death, he should pay him L.840, then the bond should be null. This bond was quarrelled as usurious; *2dly*, as fraudulent and *contra bonos mores*. After having sundry precedents in the Court of Chancery laid before us, we found it not usurious, but found it redeemable any time before Whitsunday next, on payment of the L.210 lent, and interest from the time of lending, without costs; but if not then paid, then redeemable still by payment of the said L.210 and interest, but with the costs to be hereafter incurred. (See Dict. No. 35. p. 16429.)

No. 17.

---

1745. July 24. SIR GEORGE M'KENZIE *against* ROBERT HAMILTON.

No. 18.

FOUND the indorser's oath not competent against an onerous indorsee, to prove that it was for money lost at game. We found that the clause in the Game Act concerning L.10 meant only ready money lost at game, but not bills or other securities.

---

1747. July 17. RAMSAY *against* ADDERTON.

No. 19.

SEIZERS of uncustomed goods may on the act 6th Annæ sue before Justices of Peace for condemnation, but cannot themselves be sued before them for restitution.

---

1751. July 16.

The TREASURER of HERRIOT'S HOSPITAL *against* The GARDENER of HERRIOT'S GARDEN.

No. 20.

THE gardener of Herriot's garden contracted with Mr Lampe to allow him to have musical instruments in the innermost garden during the summer season at 6. at night. The Treasurer complained to the Magistrates, who found it highly prejudicial to the inhabitants of the city, contrary to the meaning of the sett of the gardener, and detrimental to the hospital, and therefore discharged it. The gardener presented a bill of suspension, which we refused 14th June 1751. So far as appeared to me, our chief ground was, that it tended to debauch the young people, would be the occasion of clandestine and unreasonable marriages, and even worse, wherein