

THE LORDS assoilzied the defenders, and found the bond good in their favours, in regard their father had survived the term of payment, and had overseen Mr Rule's interment, and had accepted the curatory of his two children.

No 28.

*Fol. Dic. v. 1. p. 426. Forbes, p. 193.*

1724. June 23.

SIR GEORGE WEIR of Blackwood *against* WILLIAM EARL of MARCH.

SIR GEORGE having charged the Earl upon an heritable bond of pension, which he had obtained from his Lordship, for L. 150 Sterling yearly during life, which proceeded upon this narrative, 'out of the entire friendship and respect we have and carry towards Sir George Weir of Blackwood our cousin, and considering that he has the trust and management of our affairs and estate committed to him by our letters of chamberlainry, and that he has no allowance therefor granted by us, and for certain other onerous causes and considerations known to our self, &c.'

The Earl suspended and raised reduction of the bond upon the following grounds, *imo*, That the bond being granted for chamberlain-fee as the onerous cause of it, Sir George having deserted that office, could have no title to the salary; and though friendship and other onerous causes in general were mentioned in the narrative, yet these general words could go for nothing; and the particular cause assigned must be understood to be the real motive for making the deed, unless the party claiming under it could bring a proof of other onerous causes. As to the words Friendship and Respect, they might be the cause of making the salary greater than usual, but that a salary was at all granted was on account of his accepting the office of chamberlainry. *2do*, That the granting the salary to Sir George during his life was a very palpable instance of imposition, since Sir George was not on the other hand obliged to attendance during life; and in fact Sir George deserted the service.

It was *answered* for Sir George, that the principal cause of the pension was the Earl's love and affection to him, and the letters of chamberlainry were only an incidental part of it, which appeared from the pension's being during life, and was to cease in no event but of Sir George's attaining the estate of Blackwood, when he would not need such a donative: That the Earl's being *major sciens et prudens*, removed all pretence of circumvention or imposition: That Sir George had not voluntarily deserted the care of the Earl's affairs, but was violently forced away from him.

THE LORDS repelled the reasons of suspension and reduction.

Act. Arch. Hamilton, sen. Alt. Dun. Forbes. Reporter, Lord Polton. Clerk, Gibson.

*Fol. Dic. v. 3. p. 300. Edgar, p. 55.*

No 29.

An heritable bond of pension, during the grantee's life, was executed upon this narrative, 'out of the entire friendship and respect we have and carry towards the grantee, and considering that he has the trust and management of our affairs and estate committed to him, and that he has no allowance therefor granted by us.' The reason of reduction, that the grantee had deserted the office of factor, was repelled.