

principal at the day appointed. But if it were originally wrong that the principal Money should not be paid at the End of the Year, the whole Contract is Usurious and Void, that being understood to have been inserted in such a case, only with an Intent to Evade the Law by the Disguise of a special assurance. Hawkins lib. 519. some Lawyers are of opinion that a Merchant who being about to Employ his Money in trade, whereby he might have acquired more profit than the ordinary Interest of his Money, is at the Request of his friend in freight provided with to lend it to him for a higher Interest than Law allows is not punishable as an Usurer. But this plea would not be sustained by Example from the pain of Usury with us. Merchants being part 1. tit 24 § 2 in fine Annual rents in Holland being reduced from 5 to six per cent by the Parliament 1649 which the Acts were Reversed by the Parliament 1660 as made by Roberts without Lawfull Authority; One after the said Act Redignory was indicted of Usury for lading more than six per cent before. For whom it was pleaded, that the Act of Parliament 1649 being declared Null for want of Authority in the pretended Legislators, could found no Criminality, & yet against the not observance thereof. Because where there is no Law there can be no transgression. To which it was answered, that the Statute 1649 being in Vigour till the Year 1660 those who made temporary loan more than six per cent of Interest, did in so far injuriously Oppress the poor Debtors beyond others. And the the Defect of Authority in the Legislators, might be pleaded in Vindication only by a person charged with a fact made Criminal only by their Authority. Yet No such plea can be made placeable their Authority. Yet No such plea can be made placeable because Usury is a Crime prohibited by all Laws, and the quality thereof determined by the Unlawfulness of the Parliament 1649 did not Concern the Rebellion for which their Authority was quarrelled, but was Reasonable and Renewed by a Statute of the last Parliament.

Parliament 1661. The Justice did not decide this case but inclined to think that the Act 1649 the Abbogates did previously Authorize the Decision of Civil cases during the time when all Bargains were made conform to it while standing and Reported to be a Law; as the Lords of Session did in all Actions after the aforesaid Act Redignory Reversed Annual rents during those Years to six per cent but that the said Reversed Act could not find a Criminal process for so severe a punishment as that of Usury; it being the Essence of a Crime, that Action is thereby Contemned, and there being no such Contempt where there is no Authority 23 November 1668 Hugh Baxter the One pursuing payment of a bond which Redignory did grant to be justly added and owing to the pursuer's Credit a certain sum, and obliged him and his to pay the same to the pursuer his heir and Assigns at the same time the said bond was due, with Annual rent from a term there was 4 Months and twelve days before the date of the Bond, was found guilty of Usury: Because the Money was supposed to have been borrowed at the said preceding term 9 November 1711 from contra Bailie. A Discharge bearing Receipt of a certain sum, as a Yearly Annual rent (Redignory) Money being allowed conform to Act of Parliament, was found not to infer Usury; about 20 shillings Scots more than the legal Interest was Received: Which was imputed to an Error in the Calculation, not withstanding of a Note on the Back of the Discharge written by the Grantor, bearing that only three Quarters the Rent was allowed, that being understood as done by him for Memorial sake After his sons of the said Debtors to the End that the Debtor might be Redignory at the next payment 24 July 1706 Donaldson contra Magistrates of Brechin.