Lent him the Money upon a bond, but took 30 per Cent f
the use of it, taking advantage of an Inclination to bu
South Sea Stock, which at that time was pinching as
any other Necessity. The Reason drawn by the Defend
from the Custom of Selling all sorts of Commodities
at a higher Rate for time, than for Ready Money, is
of no Weight: for those Commodities have No Certain
Value, which differs in Different places, they are Not
of the same quallity, and many other Circumstances
Concur, which makes it Impossible to know what is
Exacted for forbearance of payment. Merchants will ev
sell Cheaper to one than to Another, in hopes of great
advantage Another way; in which case the laws of Usur
cannot take place. But in some sales for time, there
may be Usury: and Circumstances must Determine wh
if or Not the Contract be Usurious. There may be Usu
ry in the purchase of goods, where Credit is given for the
price, if the Value be Certain, altho it be fluctuating, a
and on Account of that trust advantage taken above
the Common Interest. Tis Impossible to say, that the
purchaser gives the advanced price for the hope of gai
when he would have the same hope of gain, the same
prospect of advantage, had he purchased for Ready
Money at the Current price. Again, altho in a time
bargain the Seller might have as great Advantage
as the Collonel, and the Buyer as great loss as the
Earl, yet the Nature of the thing doth not Admit
of Usury: Because in the time Bargain the Seller
trusts nothing to the Buyer, he gives him the loan
of Nothing, the use of Nothing, he does not Deliver
him the Stock and so gets Nothing; and so where
there is no Credit given, there can be No Usury. Be
it will not be Yeilded, that the Collonel hath No
greater

greater Advantage in this case, than he would have had by
a time Bargain: for he had a liquid security for Money, which he
might have assigned for the Value: whereas he could not have
assigned the obligation in the case of a time Bargain, nor raised
Money upon it. Besides, in a time Bargain the Seller hath a Chance
lying over his head as well as the Buyers; he may be supposed
not to have Stock in his person, nor present Money to pur
chase it, and may be obliged at the time of performance to
purchase at a higher Rate than the Buyers price. 16 July 1723
the Lords of Session found that the Minute of Agreement
and bond granted in pursuance thereof are Usurious, and
therefore Reduced the same. It is Usury when a proper Wad
set of lands Exceeding in Rent the Interest of the Money
lent, is taken with a provision, that the Creditors shall not be
liable for the hazard of the Rents Act 62 Sess. 1 Parl. 1 Cha. 2
or When Any Wadsetter setts a back-tack to the Reverser
for payment of a duty in Money or Victual above the Interest
of the Sum for which the Wadset was granted Act 247 Parl. 15 J. 6
or when the Reversion of a Wadset is affected with a back tack
for half Mail, or less, in favour of the Wadsetter, to Commence
after Redemption of the Wadset Act 18 Parl. 6 C. 2. A Cre
ditor, when the Annualrent of Money was at six per Cent,
having taken his Debtor obliged to give him A Boll of Victual
for the Annualrent of every 100 Merks free of all Assessment
publick burdens or other Impositions and to pay 10 pound
for every Undelivered Boll, and having Received these bolls
for two Years when the fiar Prices was 5 pound the Boll,
Which Was 20 shilling more than the Yearly Interest of 100
Merks, was Indicted of Usury. For Whom it was pleaded
1of that his taking a Boll of Victuall as the Interest of 100
Merks could not Infer Usury. Because the Act 222 Parl.
14 J. 6 allows a Creditor to take five bolls as the Equivalent
of 10 pound of Annualrent, which is a Standing Necessary
law that people May Not be at an Uncertainty in Criminal
cases; and he had taken only one boll in lieu of four
pound which is but the half of what law allows. Besides
the