mander in Chief in Jamaica for the time being and all others concerned are to take notice and govern themselves accordingly." Bontein the naval officer came to Scotland, and the owners sued him here for the capture of the ship, libelling L.3000 damages, and on a summary warrant put him in prison till caution *judicio sisti et judicatum solvi.* There he remained till the process was finished; when the Judge-Admiral found, from the circumstances of the case, that the naval officer acted *bona fide* and agreeably to the duty of his office, and that by the decreet he was not liable in any damages, and that the said decreet could only receive execution as to restitution of the ship or value in Jamaica. Of this sentence the pursuer presented a bill of suspension, which was refused 2d December 1749, when I was in the Outer-House, and therefore knew not, nor could the rest of the Lords remember, whether it was on the merits of the cause or incompetency. After that bill was refused the Judge-Admiral awarded L.5 expenses and L.25. 4s. 4d. for extracting decreet. Thereafter Bontein brought a process of damages against the owners for his long imprisonment, and the Judge modified L.100 of damages and L.5. 7s. 8d. for extracting decreet; and the owners presented a new bill of suspension of both decreets, which was this day reported by Lord Dun; and we all agreed that a suspension of a decreet-absolvitor was not competent, as we found before, 24th February 1741, Danish Asiatic Company against Earl of Morton and others, and therefore refused the bill as to the decreet as incompetent;—but then as to the Judge-Admiral's decreet itself, we agreed that by the act 16th Charles I. no Court in Britain was bound to execute the decreet of Council and which ought to be executed only in Jamaica, pretty agreeably to our judgment 2d December 1736, Eveleigh against Sir John Bruce; but we differed from the Judge-Admiral as to the competency of the process before him. We thought that action lay against Bontein for the seizure of the ship, as we found in the case of Hamilton against Dutch East India Company, and that the defence sustained in that case on the condemnation could not be here pleaded, because the condemnation in Jamaica was reversed upon appeal to the proper Court, as we must have repelled the condemnation in the other case, had it been reversed on the appeal then made in Batavia, or had there been an appeal to the Courts in Holland, and the sentence been reversed there. Therefore we passed the bill as to the expenses in the first decreet and as to the L.100 sterling damages in the second decreet.

FRAUD.

No. 1. 1735, Jan. 17. Purdie *against* Lord Torphichen.

The Lords found John Purdie's disposition not reducible upon the act 1621, in respect of the clause whereby the son John undertook the burden of his father's debts, but remitted to the Ordinary to hear parties anent the delivery of the disposition, and that possession followed upon it, and the other points in the cause.