flow in one channel, and the benefit of the sum, if paid, in another, is a strong circumstance against considering the contract alternative in its nature: thus where, on a marriage, the husband's father gave a bond for the payment of £600 to the wife's father, his executors or administrators, in the penalty of £1,200 if he did not convey certain lands for the benefit of the husband and wife and their issue, Lord Hardwicke held that the obligor was not at liberty to pay the £600, or settle the lands, at his election, but compelled the specific performance of the contract to settle—partly on the ground that the £600 would not have gone to the benefit of the husband and wife and their issue, but of the wife's father and his representatives, and partly that the lands to be settled were worth much more than £600: *Chilliner* v. *Chilliner*, 2 Ves. Sen. 528; *Roper* v. *Bartholomew*, 12 Pri. 797.

Where the sum reserved is single, and the act stipulated for or against is in its nature continuing or recurring, as, for instance, particular modes of cultivating a farm, the sum will be considered as a security and not an alternative: *French* v. *Macale*, 2 Dr. & War. 269; and see *Roper* v. *Bartholomew*, 12 Pri. 797.

On the other hand, where the sum or sums made payable vary in frequency of payment or amount according to the thing to be done or abstained from, the courts have, in many cases, found that the payment is an alternative.

In *Woodward* v. *Gyles* (1690), 2 Vern. 119, 23 E.R. 686, a covenant by the defendant not to plough meadow land, and if he did, to pay so much an acre, was held not to be a fit case for an injunction restraining the ploughing: but the exact form of the covenant does not appear. "If," said Lord St. Leonards, *French* v. *Macale*, 2 Dr. & War. 284, "as in *Woodward* v. *Gyles*, 2 Vern. 119, and *Rolfe* v. *Peterson*, 2 Bro. P. C. 436, there is evidence of intention that the party is to be at liberty to do the act if he choose to pay the increased rent, of course the court cannot interfere, because this court never interferes against the express contract of the parties."

In *Rolfe* v. *Peterson*, *Ibid.*, the question was whether the payment was a penalty and so came within the doctrine of equitable relief against penalties: but of it Lord Loughborough said, in *Hardy* v. *Martin* (1783), 1 Cox, 26: "That was a case of a demise of land to a lessee to do with the land *as he thought proper:* but if he used it one way he was to pay one rent and if another way another rent." Similarly, a covenant in a farm lease not to do certain things "under an increased rent of," etc., was held to give the tenant the right to do the act on paying the increased rent: *Legh* v. *Lillie*, 6 H. & N. 165; and see *Hurst* v. *Hurst* (1849), 4 Ex. 571, 154 E.R. 1341; *Gerrard* v. *O'Reilly* (1843), 3 Dr. & War. 414; and a contract to renew perpetually "under a penalty of £70" was held alternative: *Magrane* v. *Archbold* (1813), 1 Dow, 107, 3 E.R. 639.

But where, in addition to the increased rent, there is a stipulation that the act provided against shall be a forfeiture of the covenanter's interest, the sum is held to be a security only and not an alternative: and consequently the court would restrain the doing of the act: *Barret* v. *Blagrave* (1800), 5 Ves. 555, 31 E.R. 735, as explained by Lord St. Leonards in *French* v. *Macale*, 2 Dr. & War. 278-9; and, of course, the usual form of lease giving the lessor