No 24.

concerning the verity of the bond. As to the opinion of Vinnius and Sande, the same are overruled by Cujacius, Donellus, the lawyers at Altorf, Oldradus, Car. Molinæus, Tuldenus, Buzius, and especially Nicolaus Burgundus in his Consuetudines Flandriæ, and P. Christenæus in the 2d volume of his decisions Curiæ Belgiæ, and in his book ad Leges Mechlinenses, tit. 17. N. 10.; nor is there any ground for the distinction used by Vinnius and Sande; for why should the law of death-bed, requiring the circumstance of *liege poustie*, be more binding than the statute requiring the writer's name with his and the witnesses designations and subscriptions. The instances of King James the 5th's revocation, King William's testament, and the mutual tailzies in Germany, are nothing to the purpose. For King James's revocation was made long before the act of Parliament requiring the name and designation of writer and witnesses, when our laws and the French were the same as to the solemnities of writs, and the mutual entails among the German princes are of the nature of treaties of peace and alliance. His late Majesty's testament can afford as little argument; because, the testaments of princes having something of legal authority, are ruled after another manner than those of private men, and the solemnities used at the Hague are the same with those observed in most of the places where his Majesty's territories lay; upon the whole, it is absurd to impugn a contract of marriage, or rational deeds in favours of a wife, upon pretence of latent indentures, framed as it were by prophecy, to evacuate the just effect of such settlements.

The Lords found the indentures, though not made according to the forms and laws of this kingdom, may be the title and foundation of a process for claiming a succession of heritage or real rights here, and to quarrel and impugn deeds in prejudice thereof; and repelled the second defence of *lis pendens* before the chancery of England.

Fol. Dic. v. 1. *p.* 319. *Forbes, p.* 116.

1729. *February.* Earl of Dalkeith *against* Book.

No 25.

A disposition of an heritable jurisdiction in Scotland, made in England after the English form, was not sustained even against the granter, to oblige him to grant a more formal disposition; though it was *pleaded*, that such a disposition must at least have the force of an obligation good against the granter and his heirs, though it would not avail in a competition with a more formal right; and, if such a disposition would produce action in England against the granter, to renew a more formal right, it might be also a good ground of action in Scotland, seeing obligations of whatever nature, executed *secundum consuetudinem loci*, are effectual in Scotland. *See* Appendix.

Fol. Dic. v. 1. *p.* 319.