No 217. should be subscribed with his own hand that should affect his succcessors, could not be supplied with notaries, the defunct being on deathbed, and *in extremis agens*, albeit he was not altogether deprived of judgment; seeing, as to such bonds and legacies, the reservation did not bear that he might grant them *in articulo mortis*, as it did as to the burdening his lands with true debts, or making real rights thereof; as likewise, because it was presumed that that power and reservation was made of purpose to obviate practices and insinuations upon persons on deathbed; as also because it is most ordinary now, to persons to resign their estate in favour of such heirs of tailzie as they shall design, by a writ under their hand during their lifetime, which certainly is done of purpose, that when great sickness and infirmity seize upon them, they may not be induced on deathbed to alter or change, and a mandate proceed from them to notaries for subscribing their names, to alter and change what they had done so deliberately, being in perfect health and strength; so that those conditions being *stricti juris*, ought to operate so much, that they cannot be supplied *per equipollens*, but this was not decided.

Gosford, MS. No 399. *p.* 200.

1672. *February* 8. Mr Edward Wright *against* M'Loud.

No 218. Mr Edward pursuing M'Loud for payment of L. 4000, wherein his father was cautioner for another M'Loud; it was *alleged*, That the bond was vitiated *in substantialibus*, viz. the principal sum which was superinduced with a new ink, and of merks made pounds. It was *replied*, That the vitiation could not take away the bond, because the clause for payment of annualrent did evince, that the principal sum was pounds and not merks. The Lords did repel the allegeance, and sustained the bond, notwithstanding it was alleged, that neither principal nor annualrent were sought from the principal or cautioner of the bond these 30 years bygone.

Fol. Dic. v. 2. *p.* 153. *Gosford, MS. No* 468. *p.* 242.

1673. *July* 26. Mr John Bayne *against* Caivie.

No 219. The Lords found, that a tack being questioned as antedated to obviate an inhibition, was suspect, being rased in the date; so that the same seemed to be vitiated, and another year superinduced; and therefore was not a valid and probative writ in prejudice of the inhibition; unless it could be adminiculated by some adminicle before the inhibition.

Clerk, *Hay*.

Fol. Dic. v. 2. *p.* 153. *Dirleton, No* 179. *p.* 71.