

*habentur*; so that the division will fall equal; the mother to get one half, which she has discharged, and the children the other half among them.

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1685. *March 4.* SIR JAMES STEWART *against* JOHN STEWART of ASCOG.

SIR James Stewart, as Sheriff of Bute, pursues Mr John Stewart of Ascog, advocate, for reducing his right to the crownry of Bute, and for declaring his lands free from the custom and casualty of so many oats, &c. payable to the crowner's office, formerly belonging to the surname of . The reasons were:—*1mo*, He, being a member of the Session, had bought this right while depending in a plea. *2do*, He acted and exercised the said jurisdiction before he had taken the test. Ascog denied both; but objected against his title of Sheriff, seeing both the *officium vicecomitis et coronatoris* are consistent in one place, and the one needs not interfere with the other.

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1685. *March 4.* ANENT WITNESSES TO TESTAMENTS.

THIS point was debated, if a testament was null which had only two witnesses, whereof one had a legacy left to him, and so was a party interested and concerned in the subsisting of the testament. By the Roman law it was not a sufficient objection, § 11, *Institut. de Testament. ord.* But Vinnius, in his Commentary, is not well pleased with this, and thinks it was more tolerable *jure civili*, where they had *copiam testium*, than now with us. Some thought the testament only null as to his own legacy, seeing he could not be *testis in re propria*, but valid *quoad* all the rest.

Yet, in a bond of warrandice, or relief, one of the creditors concerned in the relief may be a valid and probative witness, because he has only a consequential interest.

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1682 and 1685. The CASE of the PATIENCE and PALMTREE SHIPS.

1682. *February 14.*—The case of the two prize-sloops, called the *Patience* and *Palmtree*, of *Sunderberg*, was this day debated, the Duke of York being present. It was argued how far the Lords might review their own decreets. See the 12th Act of Parliament 1661, and *Bouritii advocatus, c. de Revisione.*

The King's Advocate had this compliment to his Royal Highness, that to