

not be two 23ds of November in one year; and therefore she had lived year and day.' But this was a quibble, and no solid ground; for thus it should be construed year and day, though she was married the 23d at night, and died the 23d next year in the morning thereof; though in effect this would want a day of the full year.

No 2.

In the *triduum* of our Saviour's lying in the grave, neither the day of his suffering, nor of his resurrection were complete days, but only parts of days; yet they enter into the account of the three days. See Doctor Hammond's observations on the 40th verse of the 12th chapter of Matthew, anent Christ's lying three days in the grave, and Grotius's notes on the same passage. See elegantly for this, that *annus inchoatus habetur pro completo*, a debate in D'Avila's History of the Civil wars of France, anno 1563.

Some of the LORDS were of opinion that it ought to be *tempus continuum*, and so counted *de momento in momentum*, that one of the days ought at least to be complete; but the contrary was carried: In this cause, the LORDS also admitted women to be witnesses for proving the time of the wife's death, because they are more commonly present in such cases, than men. See WITNESS.

*Fountainball, v. 1. p. 84. & 140.*

1681. January 26.

LADY BANGOUR against MR WILLIAM HAMILTON Advocate.

THE Lady contending her adjudication of her husband's estate was within year and day of the first, and so behoved to come in *pari passu* with it, alleged the first adjudication was dated 30th day of July 16—, and hers was the 31st of July the following year, which was a day without the year. 'THE LORDS sustained her comprising as within the year and day, and found the year as to this favourable calculation of bringing in creditors together was not only 365 days, but also 24 hours farther, counting *de momento in momento*;' yet in leap year, there is an intercalary day more in February. 'But the LORDS found her adjudication null, because it wanted both a decret *cognitionis causa*, and a renunciation to be heir.' Though it was answered, finding she was prevented in diligence, she gave in a bill to the Lords, that they might allow her summarily to adjudge, at least to declare her inchoate diligence before the year expired should come in *pari passu* with the prior adjudgers; and which the Lords had granted; but this was only *periculo petentis*, and cannot alter the form established in such cases.

No 3.  
In favourable cases year and day counted *de momento in momentum*.

*Fountainball, v. 1. p. 127.*