

ANENT TESTAMENTS.

It was queried if a testament, whereof the dead's part in the inventory exceeds £100 Scots, (for, if it be within that, there is little doubt,) be only subscribed by one notary, if it be null by Act 1579, requiring two notaries and four witnesses to all writs of importance, which is interpreted to be writs above £100 Scots. Some thought it valid, because *ultimæ voluntatis liber debet esse stylus, et liberum quod non iterum redit arbitrium*. L. 1 C. de S. Sanct. Eccles. 2do, By Act 1584, one minister is declared enough; *ergo* also one notary. Others thought it null; and that the argument from a minister to a notary was not good, the law reposing more confidence in a minister's faithfulness than in a notary's.

The Lords indeed have found contracts of marriage, subscribed only by one notary, valid, if marriage hath followed thereupon; Durie, *ult. February 1637, Lockhart; ult. January 1639, Dundas*.

The Lords found a testament privileged; and that it needed not two notaries and four witnesses; Hadd. 18th January 1623, Boog against Hepburn. See Stair, *tit. 30*, and *infra*, 23d June 1680, Ogilvie. Vol. I. Page 53.

1679. July 28.

A WRIT, consisting of more sheets than one, was quarrelled as null, because not side-subscribed. The party user offered to get it side-subscribed; upon which the Lords allowed him to do it. Vol. I. Page 54.

1679. July 29. JAMES MILLAR *against* CRAMOND.

IN James Millar's suspension of a decret, obtained against him, by one Cramond, a surgeon in Kelso, for curing him of a *hernia*:

The Lords, having considered the probation of the employment, and furnishing the drugs, and finding that it was very slender, and did not condescend upon particulars and the quantity furnished, and that some of the witnesses were women; yet, in respect there was somewhat proven, they took the pursuer's oath in supplement of the probation. *Vide 31 D. de Jurejurando*.

Vol. I. Page 54.

1679. July 30. JOHN EWART of MULLOCK *against* SIMEON COOPER, Minister of Kirkcudbright.

IN a bill of suspension, presented by John Ewart of Mullock, against Mr Simeon Cooper, minister of Kirkcudbright, for his stipend, upon this reason,