attained 14 years of age should not die till a long time after, so that it might be said, that being of age sufficient and capable of making a testament he had approved of that which he had made when he was under age, by not altering it, yet this testament being null in its origin, would not be made valid by this circumstance l. 19 Qui testam. fac. poss. But Bastards may be authorized by his Majesties gift to make testaments in favour of strangers 7 July 1629 Wallace contra Mure. Aliens and foreiners in France cannot make a testament or other disposition in view of death Les Loix Civiles &c. Tom. 1 Part 1 Liv. Prelim. Art. 11 Part 2 Liv. 3 Tit. 1 Sect. 2 Art. 12. But Aliens in England are capable of making testaments and to dispose of their goods and chattels by will.

No person can make a Codicil if he has not right to make a testament. For the liberty of disposing of a part of one's goods supposes the same qualities as those that are necessary for disposing of the whole l. 6 §3 ff. de Jure Codic. None can effectually make two testaments, the former being always revoked by the latter. But any person may leave several Codicils either at the same time, or at different times § ult. Inst. de Codicil. which all subsist l. 6 ff. de Jure Codicil. Because Codicils contain only particular dispositions of a part of the goods. When there is together both a testament and a codicil, whether they be made at one and the same time or at different times, and whether the testament and codicil make mention of one another or make no mention, the codicil is considered as making a part of the testament l. Pen. ff. qui et a quib. manum. Testam. apper. l. 16 ff. de Jure Codic. 31 January 1637 Dundass contra Gu...ker's Executors. For the dispositions both of the one and of the other are equally the last will of the testator, and the particular dispositions of the Codicil ought to be considered as contained in the general disposition which is essential to the testament. Thus the dispositions of the testament and those of the Codicil are interpreted the one by the other, and reconciled with one another in such things as may subsist together. Altho the Codicil be not expressly confirmed by the testament, it is confirmed in so far as it has not been revoked: and it is presumed, that the testator has persevered in the same mind, since he has ordered nothing to the contrary §1. Inst. de Codicil. But

But if a testament or Codicil contain any dispositions contrary to those made in a former Codicil, or if it make any alterations in them, the last will would be the rule l. 5 infin. ff. de Jure Codicil. As when there is a testament, he who is instituted Executor is bound to execute the disposition of the Codicil which makes a part of the testament: so when there is no testament, it is the heir at law or the next of kin, who is charged with the execution of them in the same manner as if he were instituted Executor by the testament l. 16 ff. de Jure Codicil. For he might have been deprived of the moveable estate, and it was out of free good will that the deceased has left it to him l. 8 §1. ff. Cod. A first Codicil is annulled by a second which revokes it l. 3 Code Codicil or by a subsequent testament revoking the former Codicil. But if the second makes only some changes in the first, both the one and the other will subsist in what the second shall not have changed. And if the second makes no alteration at all in the first, both of them will have their effect: which is a consequence of the power which one has to make several Codicils. Some writers comparing a testament and codicil together, call a testament a great scroll, and a codicil a little one.

The stile of a testament varies and is arbitrary according to the testators pleasure, but ordinarly he names tutors to his children under age if he any has, and appoints one or more persons called Executor or Executors nominate or testamentary for executing or performing his will, by payment of debts and legacies &c. But a testament is good, tho an Executor be not named by the testator 13 July 1670 Daughters of Coutrie contra the Eldest. This Executor is termed Executor nominate or testamentary to distinguish him from Executors dative appointed to the deceased by the Commissary, of whom I shall hereafter have occasion to speak. Albeit the Roman Law made no distinction of heirs and Executors as we do: yet Executors who are haeredes mobilium, had their rise from that Law, which permitted those who thought good by their wills to bestow any thing upon pious and charitable uses, to appoint whom they pleased to see the same performed; and if they appointed none, ordained the Bishop of the place to execute it l. 28 C. de Episc. & Cler. Hence grew the use of universal Executors: and also brought the administration of their goods who die intestate unto the Bishop, Cowel Law Diction. Verb. Executor. The Roman Law provided, that heirs, who thereby succeeded both to the heritable and moveable estate, should only be named in testament §2 Inst. de Codicil l. 10 ff. Cod. With us an Executor who is in effect heir in moveables, may be appointed either in a written