Hastie.

A Woman's Nearest of kin succeed to her whole Moveables Hope Min. [illegible] Forbes 1674

Claiden a wife dec before her husband her Executors claim half share of her husbands Moveables at the time of her death as the would stand of the survived him Viz. a third to Kindred as there were Children or not Children Share & Share alike But the Husband is not obliged to bring in the Goods gifted him by his Wife in her time. The Husband being [illegible] Comb. 1668 former Marriage succeed to her equally with those born to the last husband Stair lib. 3 Tit. 8 § 43. All of them being in the same degree of proximity to her. Where the wife Dying first leaves no Children of her own body, but the husband hath Children living of a former Marriage, a tripartite Division is made of the goods in the testament, Viz. the wifes Nearest of kin have one third, the husband another, and a third is set aside for the Children who (tho they be not gotten of that Marriage, and can not while their father lives Claim any Legitim, have Right to a third portione juris, and their Airns part of Gear is Reserved as a Right in their person to exclude the Wifes Nearest of kin from any more than a third 16 July 1634 Henderson contra Sanders.

Having opened up the two kinds of Succession to Moveables and the several Shares thereof belonging by the Disposition of Law to heirs, widows, Children, Nearest of kin and Legataries, Method order leads me to shew what are effectual and Complete Titles to the Moveables of one Deceased, and how these are made up.

Tit. 3.

What are effectuall and Complete titles to the Moveables of one Deceased, and how made up?

Titles to the Moveables of one deceased must either be made up and Completed by [illegible] Confirmation or Intimation, or are effectuall upon Delivery pro[illegible] upon sure by the owners death.

[illegible]

Confirmation which is Ad hoc haereditatis Mobilium, Answering to publicatio & Insinuatio testamenti in the Civil law, and to the probate of a testament in England, is the Sentence of a Commissary Authorizing and Empowering an executor testamentary, or an executor Appointed by himself to an Intestate upon giving up Inventory of the Goods, gear debts and sums of Money belonging or owing to the testator or Intestate to Entromet with the said goods and gear, and uplift Receive Dispose and grant Discharges thereof and pursue for the same. Confirmation of ones testament who died in Holland is sufficient proof of his death till the Contrary be made appear. But the sole Confirmation while Standing, is not sufficient to prove the death of one who died

D. Goodlet contra Neving. Vid Mr Books of minutes mense Decembr by the Parliament 1644 not to fall in the Executry of those resident in Scotland

Mr Forbes ad 19 Feb. 1 par 3 Ch. 1. Fol. Decis. 91 95 & Stair's Collection of

Died abroad to furnish Interest to his Executors to Recover debts due to him 25 July 1677 Frenech contra E. Weems. In the time of Prelacy, one Shilling of every pound Sterling of free gear of the Deads part Confirmed was paid to the Bishops, called the Duid of the Testament except the deceased was poor, that is, not worth 40 pounds Scots Act 19 Parl. 2 sess. 1 Chap. 2 Bot the composition to the Commissary. & Bishops executors had right to Duds of Testament Actually Confirmed in the Lyftime of the Deceased Bishop, or Within his Anni, but not to Duds of the Testament Confirmed thereafter, tho the persons whose testaments were Confirmed died in the life time of the Deceased or within his Ann 6 July 1676 Bishops of Edinburgh contra Wishart. Because Duds were no part of the Temporal Revenue of the Bishoprick, but a Casualty due for Confirmation like that paid for Receiving Vassals, which is not due to Executors but only to the present Incumbent who can Confirm testaments or enter Vassals. The Duds of testaments did not belong to Bishops as having any share in the Moveable estates of persons deceased which are Devised Intestat their Executors Relicts and Children, but were in effect Sentence Money or Confirmation silver given to the Bishops upon Account that by their Sentence or Confirmation the Rights of the Deceased Are secured to be gotten by Coming to all persons Concerned Viz. Relict, Children, Creditors and others, and this whether done, No Duds or Confirmation silver was due. But now Since the Abolishing Episcopacy Duds of testaments are Discharged Act 28 Parl. 1 sess. 1 Ch. 2 & Act 14 sess. 9 Parl. K. W.

Testaments are Confirmed in their Commissariot Viz. Commissary [illegible] Jurisdictionis where the Deceased dwelt at his death as his ordinary abode, and if he had houses in several Commissariots, before the Commissary of the Bounds where the Chief dwelling place lyes 20 Novemb. 1672 Peterson contra Farmer Stair lib. 3 Tit. 8 § 81. & this the Lords found the Commissaries of Edinburgh to have no right to Confirm the Testament of a person dying at Dinburgh, where he Resided several Months with his Lady Children and some servants in a Lodging hired for a Year, and furnished with his own Stenching, he being there only about his affairs, and not Animo Remanendi. But were = served the Commissary within whose bounds the Deceased had his principal Residence where most of his furniture, servants and Labourage were 7 feb. 1672 Commissaries of Edinburgh and Breehin contra E. Panmure. One having died in an expedition to Dantzig where he designed to Live and sel up his dwelling before he went out of the Scottish Seat; Confirmation of