

Who Announceth to be heir. But Sir George M. Kenzie's
 contends, that this is unfittable to the Analogy and principle
 of Lawe for several Reasons urged by him, as 1st A Gift of Land
 granted to a Man and his heirs should not be enjoyed by
 who are not heirs, as it hold in ~~the~~ Cases of other Rights.
 2^d We having no Method to know who is heir, save by an
 Inquest, if a title of honour may be used by one who is
 found to be heir, by an Inquest, any Man might assume a
 to procure the title of a Deceased Peer, and if two Contended for it
 how could the Difference be Decided without a service. 3^d In
 subjecting one to the payment of his predecessor's debts for
 the sake of the predecessor's title, is advantageous to Creditors, and
 it is the Interest of the Common Wealth that he should be pa-
 Nor can the Apparent heir complain of this as any hardship
 put upon him: Since he may claim the title or not as he think
 fit. If it were a Benefit to the Common Wealth, that some one
 a title of honour without the State Originally given out
 maintain it, a poor No body being burdened and Ruined
 to the Government. And the Parliament of England degraded
 George Nevil from being Duke of Bedford, for want of an
 estate justifiable to his Dignity.

No living Apparent heir is liable to this passage
 but he who had right to succeed to the subject had he
 with: As the Apparent heir of line: Only if it be he of
 Moveable, or other Apparent heirs whether of line or
 Cognate heirs, Male or of heire or provision of whom
 Inheritance is provided, or to fall by succession Stat. 3
 Ed. 6. 13. McKenzie's case Feb. 3. Jul. 8. 53. Behaviour
 as heir was not secured by one Submissio with his
 he Inrovetable, while another was apparent heir, as
 the Inrovetable continued his possession of the Goods of
 he fell to be Apparent heir by the death of the former
 2 July 1629 Cunninghame contra Moir's case. This then
 in a parallel case before 17 January 1627 Grozer contra
 L. Monismith decided otherwise. An Apparent heir can
 not be said to behave, unless either he Immediate by him
 himself, or others by his express Warrant or Approbatio
 Stat. 36. This Submissio by one and another
 by a General Commission, doth not infer this pass-

title against his Constituent Stat. 87. Nor is such
 Submissio to be Imputed to his heir. 30 November 1625
 Boyd contra Lawdor and Gaitsford. The title except the same
 from his tutor in his Account Stat. 100. Nor can this
 passive title be pursued against the Deceased's heir, unless
 there was a sentence 6. November 1622. Dunduff contra
 Hamilton or at least an extract. Act of the Parliament
 7 Feb. 17. 2 Stuart contra E. Duke's heirs. Feb. 3. Jul. 6. 85. 817
 McKenzie's case. Feb. 3. Jul. 8. 53. 6. 817. That passive title
 being Major's name quon facti, the responsibility of him who is
 said to be have cannot after his death explain Stat. 9. 10.
 Arguing or title he did submissio. 4th the passive title of
 Lincashire successor post contractum. E. William, passio
 against being the. Infra pray. But this passive title
 was sustained against the Deceased's heir, where the beha-
 viour was bona fide and Universal by receiving all the
 Writs and Evidents of the Deceased without Inventory,
 albeit the Deceased had never been pursued in his own life
 time 28 June 1670 Elies of Don'th. See contra. Par. 6.

Behaviour as being doth make the tutor liable for what
 they do they were served heir Feb. 29. Sept. 1. Par. 6. McKenzie's
 case. For the happy Account. Not to beyond the error say
 that each of several heirs nor heirs be having is not liable
 in his own, but only pro rata on the debt with the best
 of the heirs portions to be distributed; his the portions the
 estate to which each of them succeed in more than the
 whole Dec. 28. December 1666. Burnett contra. 30 July
 1672 Gould's contra. Par. 6. And a solvent heir, nor he
 if the best he cannot find her self by behaving
 liable in totum for the whole debt. Behaviors as heirs,
 have no benefit of Distribution competent to him. Lawfully
 Entered, nor direct Relief when distressed from the heir, liable
 before longer from Executors if distressed for Moveable
 But it is in Arbitrio Judicis, to assign the Creditors of the
 his right upon payment, by which the heir as behaving
 may, Indirectly, assign a claim Relief. Which favour
 will not be Indulged, where either the Manner of behaving
 is good and prudent, or by concealment or abstinence,
 where the heirs or Executors liable primo loco are but
 meanly