

her introduced by Law (d. Vol 29) takes place in a New abbees well as a real estate Feb. 1711 Graham contra M. Lucas & Hammond.

Int. 2

The Duties Interest of Executors confirmed

An Executor may renounce the office in presence of a Judge before he had subscribed with any of the goods of the Deceased, but may not renounce after he is in possession of the goods of the Deceased.

All Executors are obliged to be Diligent in executing the last Testament, one who accepts of an office being bound to discharge the duty of it, but the same Degree of Diligence is not requisite in all: those who have profitable offices being liable for more Diligence than such as have none. An Executor who has had any profitable office and his labours for his profit, as a Merchant or Executor where the Deeds part is a charge will be answerable or particular charges, is liable on a Bill to signify the charge of the Executor to those having interest that they may purchase, and is accountable on a Bill for Supreme Negligence 11 June 1699 King contra. Neving & Deane, 1688. Post contra. Morrison. But an Executor who has benefited by his office is liable for exact Diligence. The Ordinary Diligence required in Executors is a Sentence and Registered Learning against the Debtors of the Deceased, to be obtained within such a time as the Judge shall determine according to the Pleas and Evidence of the case stat. 16. 3. Ed. 6. 5. 6. An Executor was found liable for Diligence and Commissions; albeit by the Testament, the Legataries and others therein named had power in case of the Executors refusing or Delaying to fulfilment the will of the Deceased, to pursue for affecting the whole goods, as effectually as if the same had been devised and granted to themselves by the Deceased 23 July 1708 Lord and Lady Eboroughs his last contracted Frobler hull and his heirs because had the Executor abstained from or Repudiated the office, it had fallen to another who would have been liable to have done Diligence, and an Intervenor who by a Will Debares another, is answerable for Diligence. Executors and Creditors are obliged to Diligence for what they conform; they being obliged only to Confirma a Summ as may pay themselves that of Ed. 1. 11. November 1679. An Executor and Creditor was found liable to Creditors of the Deceased for the price of the Paper plus of 100 marks confirmed by him have than paid himself, without Receipt upon the other Creditors to prove that he Interventor those

to him that the Deceased delayed to pay, and it was affirmed that such a Question should remain, which it behoves to do if there were still place to an executor ad non Executor; being the Deceased or farther I gave charge by Learning ad non Executor, but could not be found or killed in the person of an executor ad non Executor, who Represented the Deceased, and that the executor ad non Executor is obliged and perhaps executed.

None of these of several executors die before the last named is executed, the office becomes to the survivor, one or more 23 July 1695. Little contra Stewart. Whether before just death they were only Deceased Executors, or the Testament was also confirmed, with this Difference, if the Co-executor died before Confirmation, his Heir or of his blood is bound to pay those he might have had in the Deceased part as Heir, alax Neaving & Deane to that person the time of the Confirmation where as if he died after Confirmation, he transmits that Interest his own Heir or of his blood. Of all the Executors, or a sole executor, while any part of the Testament remains unexecuted; there is place for a new executor to be Deceased for executing the Remainder, called executor qua non executor King Min. Part. 1st. Ed. of 1680. 558 who is accountable to those who were Heir or of his blood at the first Confirmation, for the office of Executor can no more be assigned than an office of Attorney, Spotswood Bar. 1st. Executors, Gray, who an Order of the confirmed Executor to look his father and his Heir, and before all the goods were executed, the Heir of his blood, that Heir and that the Heir of the Deceased, was found to have right to the goods unexecuted by the Heir, in so far as the Mother's blood extended to. Albeit it was pleaded for the Heir of his blood that the right of the whole goods, whether executed or not, pertaining to him only, held by his blood, without Division, should be transmitted to his Heir of his blood 31 January 1639 Min. contra. Neaving & Deane, but in so far as the Testament was executed before the executor's death, his Heir is liable to his executor, with a burden of a proportion of the debts of the first Deceased 23 July 1625. Albin contra Stewart 14 July 1628. Bacon contra. Burch 25 January 1665. Minixie contra. Drum 22 June 1671. Gordon contra. Drum, 1st. Ed. 559 & 79. The Creditors of one Deceased who Diligence to affect his Real estate within three Years after his death, are preferred as to the said Real estate to the Creditors of his Appraiser, but 27 Parl. 1. Ed. 6. for the predecessor Executor and the proper Creditor of his executor qua Heir of his blood, depending upon the time of the firm Confirmation, the predecessor Creditor was preferred to the Creditor of the executor who had done the first Diligence, especially considering that the predecessor's Creditor appeared for his benefit before the firm was established in that executor person by a Deed against the Debtor of July 1669. Garver of Ed. 11. though contracted. Lee & Veatch, 1st. Ed. the preference of a predecessor Creditor to the Creditor of his Appraiser, his

Small writing in the margin of the left page, containing names and dates, possibly a list of cases or references.