

contra Medson and the performance of heretofore obli-  
 gations 22 July 1630 Salmond contra One. For Generally  
 Creditors have it in their Option to pursue either the Heir or  
 executor of their debtors of whatsoever Nature. It shall be  
 But the executor Gets Relief from the Heir of all her estate  
 debts paid by him even. Voluntary without Distress 7 March  
 1629 Falconer contra Blair 30 July 1630 L. Carnon v  
 contra Melvign 11 Decemb. 1632. John contra Parson  
 As he is bound to Relieve the Heir of all Moveable Debt  
 so far as the Inventory will reach. He shall be not a  
 separate law for obliging the Heir <sup>to receive the Inventory</sup> for obliging  
 the executor to Relieve the Heir: for the Heir sustains  
 Annualment of due ~~for~~ by an executor for sums in  
 the Inventory bearing Annualment from the date of  
 Confirmation but not for sums which it mentioned not to bear  
 Annualment 26 June 1705 Robtson contra Medson. Executor  
 are not liable for heretofore obligations which can only be per-  
 formed by the Heir as to Discharge debts. No Heir executor is obliged to  
 Annual payment of Money for years after the grantors death  
 that being incumbent upon the Heir 5 Feb. 1663 Hill contra Maxon  
 For that the executor is liable only for what was owing by the  
 Debtor for the time of his decease if the debt were no more  
 liable might be assayed for such a debt the executor would be bound  
 to a Stock for years subsequent to the Debtors death made by an  
 Executor without Distress, was not sustained as an Article  
 of Execution in the Executors account with the Heir of the  
 Heir of the Deceased because it was an heretofore Debt whereof  
 the Heir was bound to Relieve the Executor 13 June 1705 Robt-  
 son contra Baillics And the Executors paying officiously will  
 not be bound to Regulate Custom for the Heir bound in whole  
 and not for the Heir of One whose Interest it was not to  
 quit their Money without necessity upon expectation of relief  
 to be Recovered by the expense of a process against the Heir.  
 Executors of whatever kind are Accountable for the Goods and  
 debts in the Inventory; and their Intromission therein will  
 be presumed, unless they shew true Diligence done for Recover-  
 ing them how they were Debarred, or the Diligence known  
 Ineffectually 7 Feb. 1679 Parson contra Wright. An Executor  
 was made liable for bonds Confirmed, whereof he was  
 presumed to have got payment, seeing he produced not the  
 bonds 29 January 1671 Gray contra Brown. Heir ibid. 580.  
 An Executor was found liable for the price of goods  
 given up by her in the confirmed testament; it being shewn  
 goods were not, nor could be sold at such prices, but were  
 after

after appraised by impartial persons at lower prices; and  
 he at the time of Confirmation protested, that this the same  
 were Confirmed at such prices, that might not be known liable for  
 more than they should be sold for and were bought the 10 March  
 1632 L. Lidon horn contra Medson. Executors are Accountable  
 only pro Virili parte, and cannot be singly pursued, then if one  
 of them hath Intromitted or might have Intromitted with as well  
 as would satisfy the Debt in question 13 January 1625 Mc-  
 Mitchell contra McQuhang. 22 July 1630 Salmond contra One.  
~~contra Medson~~ 12 July 1626. From bill  
 contra. Mattison Heir ibid. 578 to one of several Executors only  
 Surviving may be lawfully pursued by any of the Debtors creditors  
 or Legataries for the whole Debt or Legacy in so far as his part  
 of the executor will satisfy the Debt or Legacy, that the surviving  
 Executor had paid out to other Creditors or Legataries to meet  
 as Exhausted his own share of the executor, that he remained debtor  
 to those who pursue him so far as the rest of the Heir, in the testamen-  
 tary charged by the Deceased executor with Extension to 23 July 1629  
 Atkin contra Stewart. For the surviving executor hath the right  
 to all which is not Executed or Recovered by Diligence. One where  
 two Executors are Deceased to pay to the Executor, that Executor may  
 seek Execution upon such sentence against any of the Co-executors  
 to Decree satisfaction for the whole Debt without Division,  
 if the executor against whom he seeks execution for the Debt  
 Intromitted with as much of the assets of the Deceased as will  
 satisfy for the whole Debt and in other ways 16 November 1626 of him  
 est contra Marshall. For such execution for the whole Debt  
 is not allowed against two Executors Intromitters Decree to pay.  
 bid. 578 pag 1573.

The Executor cannot Regularly make Voluntary pay-  
 ment without a Sentence for his own sake 4 June 1677 Medson  
 contra Anderson because otherwise he might by his Intromis-  
 sion prefer one Creditor to another and all Creditors doing diligence  
 against him within 6 months of the Debtors death had of 2000.  
 28 Feb. 1662 come in pari passu for keeping an Equality among  
 Creditors. But those pursuing after the 6 months are preferred  
 according to the priority of their Diligence: And will not  
 suffer prejudice by any partial Collection of the executor  
 in Defeating against one and not against another, or  
 in Making payment to the obtainer of the first Decree  
 an Inferior court before him who procured a second Decree  
 in the Court of Session, where the form of procedure is  
 more prolix, if Collection in the first Decree was prior  
 to that in the former and the use of the first Collection  
 was not in Mora Heir ibid. 569. For Debts of the deceased  
 be preferable to the just Debt of Legataries or Legacies, the  
 Executor may pay the latter bona fide to the Debtors  
 Children or Legataries upon their obtaining Decree against