

them as a ground of their knowledge 13 Decemb. 1673
 Thomson contra Corbett. But such oath given by an ex-
 ceutor, or holding him as Confessed, is effectual only against
 himself, in so far as he may have benefit by the testament.
 And therefore the Profwer ought to find Caution to Re-
 =love the Money to be Recovered by him from the ex-
 ceutor upon his oath to believe the executor at the hands of
 all other Creditors or Legatees 6 March 1627. See com-
 =Coekburn 13 March 1627. See contra Lady Cowlington
 lib. 3 Fel. 837. Which is some thing Analogous to fault
 Miliana in the Civil Law.

Anciently executors having executed the whole tes-
 =tament believed for their security to get a Decree of Execu-
 tion before the Commissioners against the Creditors
 all having Interest, upon proving, that the whole Inven-
 =tary is exhausted by payments
 but such a Decree is not now necessary to executors; for
 it is sustained Relevant for them to prove by exception
 that the Inventory is exhausted for instructing where
 the executor may found upon if debts due to himself be
 =fore Confirmation. See lib. 3 Fel. 837. 6. For amongst
 debts that are of equal Degree, the executor may always
 pay himself first, lib. 53. but he cannot found upon
 Privileged debts paid at any time, and testaments are
 =paid before citation at the Instance of other Creditors 837
 Common debts paid by Justice of Sen lence, according
 the order of Diligence done for them. 49 Decrees and
 =Acquitted for wrongs against Debtors of the Deceased
 executor, which are Relevant to absolve him from
 =for their Accounting for such debts not Recovered.
 The expence of Confirming the testament, which is
 =allowed out of the whole head of the executory. Because
 the the Heir or Children need not conform the
 =Respective Shares of the Movables that conform the
 =titles thereto; yet it is Impracticable to make the
 =Division, till the Subject be Confirmed and the In-
 =ventories or others concerned be not Injured 20 Inst
 =1713 Monerief & her husband contra Monerief
 But an Executor in a Court and Accounting shall

In France he gains one ashir to the Decree, was not Allowed
 out of the executory extra ordinary expences. See also
 =in expending the Confirmations, he suffers by the fault of the
 =Apparent heir of the Deceased, against whom no action was brought
 in his life time, in prejudice of the Defender his heir. See
 =Beneficium Inventarii, who all Represented the Apparent heir 15
 =Decemb. 1710 & 17 January 1711. Lord and Lady Armerston contra
 =Hamilton of Bangour. Nor Jpl was the forme to have right to
 =Retain the extraordinary expences of the funeral of the Deceased,
 =suppose the same were furnished by order of the said Appa-
 =rent heir, Eodem die enter Robert's The Charges of build-
 =ing a Monument to the Deceased ordered by him in his
 =testament, was allowed to the Executor out of the dead
 =part 20 June 1713 Monerief & her husband contra Monerief.
 =But the Court seemed to be of opinion, that a Monument
 =erected to one whose Character and for whose Deceased Monerief
 =might would be considered as a part of the funeral expences
 =and come off the whole head, Eodem die enter Robert's
 =the executor was Allowed Deduction of the expences of the
 =Monument, albeit the testament Ordering it to be built,
 =was reduced for Informality in a Resignation. Besides before the
 =building, and the executor got a bond of Relief from the Heir,
 =in case the testament happened to be Reduced. Because the
 =will of the Deceased, tho' afterwards reduced, should keep the
 =executor in damnis as to all said Debt in executing thereof.
 =And while the testament stood, the Executor might have
 =been Compelled by the Relations of the Deceased to fulfill that
 =part of his will. But the executor would have no Allowance
 =for the expences of Defending against Reduction of the testa-
 =ment: because the the Loss of a plea is often ordained
 =to pay the Gainers expences; it were hard to make the
 =Gainer pay the Loser expences; who must blame himself
 =for pleading without a just Ground 19 Feb. 1712. Monerief
 =& her husband contra Monerief. 67 of the Executor may
 =plead in his exoneration the necessary expences of proof,
 =and Execution against the Debtors of the Deceased, which
 =he gets Allowance of: because such Debtors are not bound
 =to pay to him without a sentence for their Varr and their
 =titles. Where Executors have only an office to the Books
 =of others, they are obliged to do Diligence upon all proba-
 =ble Interest of the executory, and the expence thereof
 =must