

may intromit with great sums without confirmation, and therewith pay whom he pleases, and the cautioners in the confirmation of the remaining subject avail themselves of such payment, it is what the creditors have in their power to prevent, by confirming themselves in due time, or if they be excluded by the confirmation of the nearest of kin, by pursuing him within the six months. *See* EXECUTOR CREDITOR.

Fol. Dic. v. 3. p. 190. Kilkerran, (EXECUTOR) No 5. p. 172. & No 7. p. 173.

No 31.

1777. *March 11.* CRAIG *against* RATTRAY.

No 32.

ANNE RATTRAY decerned executrix *qua* relict of Steven her deceased husband, applied by petition, and obtained a valuation of the effects according to inventory. Craig, a creditor, *objected* to the inventory, that the valuation being L. 133 : 5s. was too low; whereas he was willing to give L. 200 for the effects. He therefore craved, that either they should be delivered to him, or charged to the widow at that amount, or, lastly, exposed to public auction.—THE LORDS, in an advocacy from the Commissaries, remitted with instruction to find the relict accountable to the creditors for L. 200, in respect that sum was offered for the goods, and that she had disposed of a part of the same, which she had no power to do before confirmation. *See* APPENDIX.

Fol. Dic. v. 3. p. 190.

SECT. V.

In what cases Executors may make Payment.

1507. *January 27.* MARGARET SYMSON *against* JAMES SCOT.

No 33.

COUNT and recknyng beand justlie and lauchfullie maid be the executor, of his intromission with the guidis and geir pertening to the deid, he on na wayis thairefter may be callit as executour for ony debt auchtand be the deid.

Balfour, (EXECUTOR) No 11. p. 221.

1541. *July 30.* A. *against* B.

No 34.

THE executouris may be callit and persewit be the legatoris, for payment of all legacies left to thame be the deid.

Balfour, (EXECUTOR) No 9. p. 220.