

the superior; but in regard to the debts mentioned in the same class, tho' one stands before the other, yet are they all of the same degree; and of the same class or degree, the executor or administrator may pay which he pleases first; unless an action be brought; in which case the debt for which the action is brought, must be paid before any debt of the same class, or degree, whereon no action was brought; should an action be afterwards brought for a debt of the same degree, and judgment thereon obtained, such judgment may be pleaded by the executor or administrator, to the action first brought, but debts of a higher nature or class, may be paid before a debt of an inferior degree; altho' action should be brought for the inferior, and none for the superior debt, or may be pleaded in bar.

Method to be observed in the paying of debts.

In paying of bonds, regard must also be had to their time of payment, to the end that no bond payable at a day to come, be paid before a debt on bond forfeited; that is, whose day of payment is already expired.

If the executor or administrator be sued for any debt *legally* due from the deceased, and suffer judgment to go against him, having assets in his hands sufficient to discharge such debt,

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