

marry, and defraud their predecessors' creditors; neither are they obliged to run a course of diligence by adjudication, seeing I have this shorter method of fixing it as a plain behaviour; and if you offered to renounce, I would not suffer you, because having immixed, *res non est amplius integra*. Some of the Lords were clear to find it an universal passive title to make them simply liable; but it being craved no higher but *in valorem*, the LORDS found the husband liable in so far as his intromission should be proved against him; seeing they are *una persona in jure*, and his intromission in her right must be reputed to be her own intromission, which if it were, she behoved to answer her predecessor's creditors *in solidum*; and here it was no farther extended than to his actual intromission, and not to make them simply liable.

No 37.

Fol. Dic. v. 2. p. 29. Fountainhall, v. 2. p. 202.

S E C T. VI.

Behaviour not inferred if the intromission can be ascribed to a singular title.

1628. July 8.

DUNBAR against LESLIE.

No 38.

THIS defence against an heir's intromission, viz. that the father's relict had a liferent tack of the lands, and by her tolerauce he intromitted, was found relevant.

Fol. Dic. v. 2. p. 30. Durie.

*** This case is No 15. p. 5392., *voce* HEIRSHIP MOVEABLES.

1630. January 30.

CALDERWOOD against PORTEOUS.

No 39.

PORTEOUS being convened for payment of L. 100 addebted by his father, as behaving himself as heir to him, by intromission with his heirship goods; and he alleging his intromission to have been virtue of an anterior disposition made by his father of the same to him. THE LORDS sustained this disposition to liberate him; albeit the pursuer *replied*, upon the father's retention of the possession, notwithstanding of the disposition, to the time of his decease; which was repelled, seeing the defender *duplied*, that his father becoming old and decayed in means, and wanting a wife, she being then deceased, and the son be-