

the party replying that the relict was further intromissatrix with the defunct's goods, viz. corns, cattle, and all others his goods, besides the particulars which were purged as necessary; and that she was universal intromissatrix, therefore that he needed not further to be more special; for if she would purge any more intromission had by her, she ought to give the same up herself; but where the party alleged that she was universal intromissatrix, besides the particulars which she purged, he needed not be more special; but the LORDS declared, That they would consider after probation was renounced, at the advising of the cause, if as much should be proved as would make her liable as universal intromissatrix.

*Durie, p. 478.*

No 147.

1633. January 12.

— against BRUCE.

IN a pursuit of registration of a bond of 500 merks against Bruce of Stanstill in Orkney, as universal intromitter with the defunct's goods, who was granter of the bond, the defender was found universal intromitter, and decret given *eo nomine* against him; albeit it was proved only that he intromitted with a hat of the defunct's, an iron saw, and a chest, and a brazen pistolet pertaining to him, whereof no price was proved, and with a horse, which was sold for L. 80, there being nothing further of any more intromission proved to be had by the defender; neither ever was it proved what other goods the debtor had, or who had intromitted therewith, nor that ever being enquired at the witnesses, albeit the debtor was a gentleman who had heritage. And it was not found enough, (as some of the LORDS thought expedient) that the defender should be decerned to make the particulars and prices thereof, whatever the same might be proved to be worth, forthcoming to the pursuer, and not thereby to make him liable to the whole creditors, as universal intromitter; for the LORDS thought, That he being vitious intromitter, and without a title, or possibility of a title, albeit he had intromitted with any goods of the smallest moment and quantity that might be, and the debt never so great, yet by that intromission, which could not be warranted in law, he was subject to pay the whole debt; but this process was deduced against the defender not compearing.

Clerk, *Gibson.*

*Fol. Dic. v. 2. p. 41. Durie, p. 663.*

No 148.

A person, who intromitted with articles of small value, but without title, or the pretence of a title, found universally liable.

1636. February 5. MOWAT and DAGERS against PENNIE.

UMQUHILE DAGERS having pursued Christian Pennie before the Commissaries of Edinburgh, as executrix to Dagers his debtor, for payment of the debt; and after litiscontestation, the said Christirn Pennie dying, this act and process is de-

NO 149.

One of two sisters, who had lived in the same house, having sold some