

predecessors decided, as far back as the practiques go, as appears from Haddington, 8th March 1610, Baillie against Home, No 13. p. 9658. ; Durie, 15th January 1630, Cleghorn against Fairly, No 21. p. 9664. ; and Stair, 28th June 1670, Ellies against Carse, No 27. p. 9668. ; and Innes against Duff, No 28. p. 9670. ; and since the Revolution, in the Laird of Blair's case, No 34. p. 9675. the Lords expressly found them liable, if they did not apply to a Judge, and get them inventoried. And the accurate French Lawyer, in his *Traite des Loix Civiles*, in handling heirs making inventories, lays this down as a rule, that if a son immix without getting the papers sealed or inventoried, he renders himself purely and simply heir ; and that eminent English Civilian Swineburn affirms, an executor omitting to make inventory is even bound to legatars, and so much more to creditors. The Lords, by plurality, found his accepting the key, and taking the papers to which he was specially assigned, did not infer the passive title of behaviour. But all were generally convinced, that it was of a dangerous consequence to allow such intromissions ; and, therefore, deserved amendment and regulation, by an act of sederunt, *pro futuro*.

*Fol. Dic. v. 2. p. 29. Fountainhall, v. 2. p. 483.*

## S E C T. V.

## Husband's Intromission in name of his Wife.

1680. January 15.

DINGWALL against IRVINE.

No 36.

THE LORDS refused to sustain the husband's intromission to bind behaviour upon her (his wife) as heir to her father ; yet women heirs may thus shun debt by marrying ; only the husband will be liable as intromitter. *Queritur*, If a confirmation *ante metam litem* will purge it, being of heirship.

*Fol. Dic. v. 2. p. 29. Fountainhall, MS.*

1703. December 17.

LINTHILL against DICKSON.

No 37.  
It was the  
opinion of the  
Court, that

HOME of Linthill being creditor to Dickson of Overmains, pursues Phillis Dickson, daughter and apparent heir to his debtor, and William Stewart her husband, on this passive title, that she had behaved as heir, in so far as she had