1630 Fullerloun contra Kennedy as effectually as the Con=
=firmation of Executors would do it, whether the Intromitter or
Another from Whom he had No Warrand be Donatary of the Escheat
For both are Universal titles, and Another than the Donatary
not Intromitting is liable to the Donatary, tho the former had
no Warrand or Authority from the Latter for so doing Stair lib.
3 Tit. 9 § 12. But if the Gift of Escheat is Simulate, and acquired
to the Rebels Behoof, or presumed to be acquired for his behoof
tho it's being purchased with his Means and Moyen, or his
being suffered to Continue in possession of the goods till his death
a declarator thereof will not defend against Vitious Intromis=
=sion 12 July 1628 L. Moridoun contra L. Frendraught 15 Decem.
1638 Gibrie contra 27 June 1665 Monteith & Lin=
=gton contra Monteith. If the Gift being Simulate was known
to the person before he Intromitted. In short any Colourable title
tho not effectually sufficieth to exclude Vitious Intromission 9 Jan.
1680 Brown contra E. Lothian 27 feb. 1662 Palmer contra
Dalgarno 6 July 1664 Brown contra Lawson 13 Decemb. 1676
Fairholm contra Montgomery 16 June 1671 Bowers contra Lady
Cooper. The Lord Stair (Rub. 37) holds, that Intromission which
infers this passive title, must be qualified per universitatem
as with a flock of sheep or house hold plenishing &c. tho the
several Individuals of the flock or particulars of the plen=
=shing have been Meddled with by others; and that it is
not Inferred by Intromission with one or some Small thing.
Thus a person was not found liable to Vitious Intromis=
=sion for Once Intromitting with seven pound ten shillings Sec.
22 January 1713 Sharkie & Com contra Foly, or by selling
five bolts of Corn, eating four or five sheep, and retaining
other thirty sheep then calant 5 Decemb 1623 Lud contra
Livingston or by Uplifting fifty pound Scots as being ex
Modica 26 feb. 1668 Reoch contra Cowan. Sir George Mack=
=zie (Jud. lib. 3 Tit. 9 § 22) Says, that very Small Intromis=
=sion will Work this passive title. Thus Intromission with
any goods of the Smallest Moment and quantity, was
thought to Infer it 12 January 1633 contra Bruce
5 feb. 1636 Monat & Rogers contra Penny. And a son was
found a Vitious Intromitter by Continuing to work with
his fathers Wright tools and Instruments 13 June 1675
L. Abercairnie contra Nicol.

Vitious Intromission once Incurred by delict 24 January
1628 Adie contra Gray. Or Children, 22 January 1663
Steven son and Her son contra Her and others 13 Decemb.
1709 Drummond contra Campbell of Burntland may be
purged by Confirming themselves Executors to their Husband

by parents, within Year and day of their death, tho after
their Relets or Children were pursued as Vitious Intromitters
by Creditors of the Deceased. For which case process will be
sustained against them as Executors, tho they were Convened
as Vitious Intromitters. For there is no Reason to put the Creditors
to a new Action against them Who were Lawfully Summoned
as Intromitters, when No other title stood in their persons;
and became Executors by their own supervenient Deed 29 Ja=
=nuary 1628 Adie contra Gray. But super intromission with
goods not given up in the Inventory, after Citation at a Cred=
=itors Instance, is Relevant to make the Super intromitter Uni=
=versally Liable 13 Decemb. 1709 Drummond contra Campbell.
A Stranger who Vitiously Intromits, is excempted from this passive
title, by a subsequent Confirmation before but not after Action
is moved against him by a Creditor of the Deceased. For his
Confirmation will not be sustained against those who had
Convened him before as Vitious Intromitter; and Instance
obtained at their Instance, is drawn back to the Date of the
Citation. Unless the Creditors had Cited so soon after the
Debtors Decease, that there was no Competent time to Confirm
before Giving of the Citation Stair lib. 3 Tit. 9 § 11. Albeit Con=
=firmation prior to Citation at any Creditors Instance,
purgeth Anterior Vitious Intromissions Yet Inventory
and Rouping of goods in Virtue of a Magistrate War=
=rand, was not sustained to Purge Anterior Vitious Intromis=
=sion 29 June 1705 Archibald contra Lawson. Vitious In=
=tromission is also purged by the Intromitters obtaining
afterwards a gift of the Defunets escheat 17 July 1635 Lord
Johnston contra Johnston 7 feb. 1662 Gray contra Dal=
=garno 27 feb. 1662 Chalmers contra Dalgarno 22 January
1675 Chalmers contra Gordon, or a Right from the Dona=
=tary 4 July 1665 Innes contra Wilson. Before he is pursued
as Vitious Intromitter. Yea a son who was found familiate
having Vitiously Intromitted with the Goods of his deceased
father, who died at the horn in September; the Vitiosity
was purged by the Intromitters obtaining a gift of the
Defunets Escheat, so soon as the Exchequer sat in Novem=
=ber, tho the gift was after Citation at a Creditors In=
=stance. Because Citation was given before the gift could
be obtained; And the son who had an Interest to preserve
his fathers Moveables for Relieving his land of the debt,
had used all Diligence for procuring the gift, which was the
only Habile way to purge Vitious Intromission with the
Goods.