

No 182. be alleged, that the defunct's escheat was gifted and declared before intending of the cause, or that the defender did intromit, either by virtue of a gift to himself, or by warrant and right from the donatar for the defender's intromission, though the gift was not declared before the intending of the cause; in respect if there was a gift declared before the intending of the cause, the defender is in the same case as if there were an executor confirmed before the intending of the cause; and if he had either the gift himself, or a right from the donatar before he did intromit, his possession *ab initio* being by virtue of a title, though not perfected, cannot be said to be vitious; and *quivis titulus etiam claratus*, purges the vitiousness of the intromission.

Reporter, *Strathurd.*

Clerk, *Gibson.*

*Fol. Dic. v. 2. p. 43. Dirleton, No 205. p. 92.*

No 183. 1686. *March.* BELL *against* ELLIOT of Dunlabyre.

A WIFE being pursued as vitious intromitter with goods in Scotland belonging to her husband, who lived and died in England;

*Answered,* The defender was administratrix to her husband in England (the same thing as executrix confirmed in Scotland) and *mobilia sequuntur personam.* 2do, As *super* intromission is purged of a vitious passive title by a prior confirmation, so, *a pari*, the letters of administration were a putative title that ought to purge the vice.

*Replied,* The administration gave no right to goods *extra territorium.*

THE LORDS found the administration purged the vitiosity.

*Fol. Dic. v. 2. p. 43. Harcarse, (PASSIVE TITLES.) No 66. p. 12.*

1738. *December 12.* RENTON *against* WOOD.

No 184. INTROMISSION by the master with the effects of his deceased tenant, by order or with consent of the widow, for payment of the rent due to himself, found not to infer vitious intromission in the master.

*Fol. Dic. v. 4. p. 47. Kilkerran, (PASSIVE TITLE.) No 2. p. 366.*