

confirmed to him, and at the term assigned to prove, producing a testament where another creditor was confirmed for his own debt, which being quarrelled by the pursuer, as not sufficient, to exclude his action against the intromissatrix, where there was only so much confirmed, as would pay that one creditor confirmed executor; the Lords reponed the parties to prove, or to elide and purge the intromission, notwithstanding of that confirmation, which was not respected, and it was not found necessary that the party pursuer should be compelled to take a dative *ad omnia*, but sustained the action against the intromissatrix, except she purged her intromission.

No. 47.

Act. *Monat.*Alt. *Nicholson.**Fol. Dic. v. 2. p. 369. Durie, p. 121.*

* * Haddington reports this case :

If the relict pursued, as universal intromissatrix, allege that the defunct's testament is confirmed by other executors, it will be repelled if the defender offer to prove, by his own oath, that besides the goods confirmed in testament, she has intromitted with more than may pay his debt, and he will not be forced to take a dative *ad omnia*.

Haddington MS. No. 3085.

* * See Douglas *against* Tours, No. 168. p. 9849. *voce* PASSIVE TITLE. Maxwell *against* Stanly, No. 198. p. 9871. IBIDEM; and Anderson *against* Anderson, No. 170. p. 9851. IBIDEM.

1626. December 9. LORD BLANTYRE *against* FORSYTH.

No. 48.

Process was sustained at a creditor's instance against an intromitter with the defunct's effects, and that even without calling the representatives of the defunct.

*Fol. Dic. v. 2. p. 369. Durie.** * This case is No. 24, p. 4813. *voce* FORUM COMPETENS.

1628. December 6. CRANSTON *against* ADIESON.

No. 49.

In an action, a wife pursuing her good-son, married on her daughter, as intromitter with divers goods and bestial, and other gear pertaining to her, and being in her possession divers years before, for rendering the same to her; this action was sustained at the pursuer's instance for the same, albeit it was alleged, that she could have no interest to pursue therefore, seeing the same pertained to her hus-

Process sustained at a relict's instance for goods belonging to her husband at his death,