

his father, who retained the possession of his own goods, during his life, seeing he entered thereafter to the possession both of tack and goods.

No 175.

Act. *Fletcher*.

Alt. ———.

Fol. Dic. v. 2. p. 43. Durie, p. 867.

1662. February 27.

GRAY OF CHALMERS *against* DALGARNO.

No 176.

A GENERAL disposition of moveables, though an incomplete right without confirmation, was sustained to defend the disponee from being liable as vitious intromitter.

Fol. Dic. v. 2. p. 43. Stair.

*** This case is No 169. p. 9850.

*** A similar decision was pronounced 15th June 1681, Baird *against* Robertson, No 42. p. 3856. *voce* EXECUTOR.

1664. July 6.

BROWN *against* LAWSON.No 177.
Found in conformity with the above.

ALEXANDER BROWN having obtained a decret *against* William Lawson as vitious intromitter with the goods of umquhile Willam Lawson of Newmills, he suspends, and *alleges* the decret was unjustly given, because it bears, that he excepted upon a disposition, made by the defunct for an onerous cause, and an instrument of possession of the goods before his death. The charger *answered*, That the decret did bear, that the suspender did judicially acknowledge, that there was no true delivery of the goods.

THE LORDS found this colourable title sufficient to purge the passive title of vitious insromission, providing the defender confirmed within four months; for they thought the defunct's disposition *in articulo mortis*, was rather as a testament or legacy, in satisfaction of the defenders debt, than as *actus inter vivos*.

Fol. Dic. v. 2. p. 43. Stair, v. 1. p. 209.

1666. July 12.

JOHN SCOT *against* SIR ROBERT MONTGOMERY.

No 178.

JOHN SCOT pursues Sir Robert Montgomery, as vitious intromitter with the goods and gear of Sir James Scot of Rossie, to pay a debt due by Sir James to the pursuer. The defender *alleged* absolvitor, because any goods he intromitted with, were disponed to him for onerous causes, by the defunct, and delivered conform to an instrument of possession produced.