

of Creditors that the goods be not left or suffer to perish  
 16 January 1628 Allen's Executors contra Lander M. Linc.  
 Inst. l. b. 3 fol. 9 § 23. A husband was not found a Vilious  
 Intruder by Continuing to possess Year and Day, but by  
 Sale of his Moveables and so forth, to which he had a  
 Disposition from her in debt, he Confirming before Edward  
 13 Decemb. 1646 Dayly contra Montgomerie. Nor is that  
 positive title Incurred by a Stranger buying the goods for  
 one he thought the owner, for a Just price, Albeit in  
 cases executors may recover them by Indication, but  
 by buying by Collision or fraud will not Cover from their  
 passive title. Blair l. b. 3 fol. 9 § 15. Thus Wilious Intrusion  
 that he bought the goods within ten days after the de-  
 ceased's decease, from one who had a Disposition to them,  
 being the Disposition which he took, and proved, was re-  
 produced, and he might know that the goods were not con-  
 firmed within so short a space 29 Novemb. 1679 Irving  
 contra Dalpatrick. No person can be a Vilious Intruder  
 of the Deceased, whether it be the Intruder, or some other  
 from whom he Derives no right Blair l. b. 3 § 2. Being  
 in such a Case, the Intruder is liable only to the executor  
 who is proprietor of the goods against whom also a party  
 Representing the Deceased All Creditors have good action  
 via an Executor being Confirmed and sustained to his  
 Decease Incurring a Vilious Intrusion, even where the  
 Confirmation was and as more than to palliate  
 the Difficulty. The Intruder having caused, by his  
 own rapacity a Beggar to be confirmed Executor, and  
 another Beggar to Inact himself as Cautioner for the  
 Executor, and promised to disengage him from all action  
 and danger by his office 20 July 1626 Grant contra Be-  
 nant. But an Executor founded upon the Intra mission  
 being Executor found in such a Case, by this Reply, that the  
 executor Intruded with some part of the goods of the de-  
 ceased, which he concealed and kept out of the Inventory of  
 his Testament Blair l. b. 3 § 11. Such an Intrusion before Con-  
 firmation was found not to make the executor Universally  
 liable but only in Value, and the Value could not be fixed  
 without a Value ad omnia and Confirmation of June  
 1646 Irving contra Forbes. Albeit some of the said were  
 positive of the Opinion, that a person Intruding into  
 more than he Confirms, is liable as a Vilious Intruder,  
 being he could not plead to be executor as to what was  
 not Confirmed, and the Confirmation could not put him

in a better case as to that than if there had been no Confirmation,  
 being it was found in him to Omitt out of the Inventory anything  
 intromitted with by him, Eodem die inter Episcopum obsequi by D. 2  
 = Letour. Such Superiours may sue by a third party before the  
 Confirmation, was not limited to Oblige the Intruder only,  
 to make these Particulars forthcoming, and not to In for an  
 Universal passive title 28 March 1632 Maxwell contra Lady  
 Plantie. Formerly, our Lawyers were divided in their Opinion  
 about this point, whether Confirmation of an executor for  
 both kinds of Intrusions. The President Spotswood (Præ-  
 sit Universal Intra mission) holds, that it doth not: being  
 Creditors Confirming only for their own payment; and con-  
 = firm no more than such sales by themselves, and so have  
 = not right to the whole Moveables of the Deceased, nor are  
 such parties ad action may be had against for Res de t. t.  
 The said Blair l. b. 3 § 9. Inclined to think, that Confirmation  
 of an executor would have the same effect, as Confir-  
 = mation of any other Executor. But the Matter is here  
 Determined by a Law Declaring, that the Confirmation of  
 an executor in a particular debt or subject,  
 shall not hinder Vilious Intrusion, unless the Intra-  
 = mission have right from him before his Intrusion  
 Act 20 Sept. 6 Parl. L. W. Yet Intra mission with the  
 goods and gear of one Deceased, which the Intruder after-  
 ward confirmed as Executor Executor to him before any  
 Intra mission by a Executor of the Deceased, doth not work  
 a passive title 18 June 1712 Moor contra Maxwell. Be-  
 = cause, the Confirmation of an executor Executor doth  
 not hinder Vilious Intrusion in another person. Yet  
 it saves the executor Confirmed from being reached as  
 a Vilious Intruder upon the account of former Intra-  
 = mission had by himself, again, tho' it doth not exclude  
 as if thereby no thing was in bond Defuncti, and all  
 his Moveables belonged to the said 17 Feb. 1662  
 Gray contra Dalgarino. because the Moveables  
 belong not ipsi facto by the title, only to the first  
 but may be effectually Disposed by the Deceased for an  
 Intra mission cause anterior to the Deceased's decease, or may  
 be asserted by his Executor, or Confirmed by his  
 Executor Executor. Yet a Declarator of Deceased of the  
 Deceased excluded Vilious Intrusion 26 Novemb.  
 1630