

Goods of a deceased Debtor outlast, January 1680 *Urguard*  
contra *Dalgarno*.

The Lord *Hair* (*ibid* 35) tells us, that *Without Intromission* is hardly competent by exception, but only by Action. Because it may be always purged by Confession anterior to any final Instance of Creditors, and therefore the Intromitter should not be deprived of his Liberty, by charging him with his passive title by way of Exception. This the Lord Decided 20 November 1680 *Pride contra Thomson* Creditors only, and no other person can pursue this passive title, those to whom special Legacies are left, & Children or others having interest in the goods and gear of the Deceased, can pursue Intromission for no more than simple restitution of the true value of what they should had with 20 November 1680 *Pride contra Thomson* *Hair* *ibid* 87. An Intromitter with *Proveca* effects of the Deceased, was found liable only according to the extent of his Intromission, to the heir of the Deceased, who had paid some moveable debt, and was Creditor for Relief take of out of the execution 15 June 1711 *Erving contra Rowan*. A bill upon *Universal Intromission* is relevant without necessity, the Particulars needed with, if referred to the Defendant Oath, who is supposed to know his own deed of Intromission, *Hair* *ibid* 86. The Defender may, if he pleases, alledge, that any Intromission he had was <sup>with</sup> such or such particular goods which he purgeth. But then the pursuer may Reply, that besides these particulars the defender had for this Intromitted with other things as *Corne* Cattle and all the Defendant's other goods, without necessity to be more special as to the particular things, *not wood* *Dual* *Intromission* *Universal Intromission* *in fin*. If there be several *Without Intromission*, each of them is liable in *solidum* if pursued separately: But if they are Conveened Jointly in one process, they are Deared only *pro Venili parte* or equally, *11 November 1626* *Chalmers contra Marshall*, the *their Intromissions* were not equal unless any of them be *Intromission* *Hair* *ibid* 89. *M Linnie* *Intromission* 3 *Int* 9 §24. One of *More* *Without Intromission* who is Deared to pay the whole debt, or more than his share thereof, gets no Relief off the rest of his accomplices *Hair* *ibid* 87; *M Linnie* *ibid*. Because *Wrong* had *no Demand*, and *Without Intromission* is only a *Passive* title which affords no Relief Interest to the Intromitter. But an Intromitter may pay the whole debt, may *work* out his Relief, by getting assignation from the Creditors, which will oblige the other Intromitters to pay only <sup>pro</sup>

*pro rata* according to the assignees own part of the debt *Hair* *ibid* 87. *Without Intromission* cannot be pursued upon the passive title, unless it was established against the *Without Intromission* himself, or at least this contestation made in process against him *Comparing* 10 July 1666 *Frans contra Willison* 14 December 1670 *Without Intromission* Murray observed by *Dortelow* *Hair* *ibid* 87. Because the passive title supersedes *Staburam* *Delicti*, non *transit* in *handed* in *so far* *at* *it* *penal*. And it were of *Dangerous* *Consequence*, if persons might be liable to *Without Intromission* of all their Predecessors *Immediate* and *Remote*. But if this Contestation is in process for *Without Intromission* against the *Without Intromission* himself *Comparing* *10 July* *1666*, his Representatives may be sued for payment; or the Action may be *transfere*, *pro*, and the passive title proved against them, *Hair* *ibid*.

Having set forth the nature, the principles, and the Detail of all the several Matters, which are the Subject of *Civil* *Contentions* and *Differences*, I proceed to the *ways* *how* and may be put to such *Differences*.