

tit. II. § 4; Spot. Pract. p. 93. And, with respect to the argument, that a master may set a flock of sheep, for instance, to his tenant, which could not be poulded for his debt, it was *answered*, that there could be no doubt various contracts might be entered into with a tenant; but, if he was not only to have the possession, but likewise the profits and offspring of the flock, such a bargain could not cover these goods from diligence at a creditor's instance. Stair, book 3. tit. 2. § 7.

No 3.

THE LORDS found, That there was no steelbow legally established in this case, and therefore repelled the defence.

*Fol. Dic. v. I. p. 416. C. Home, No 49. p. 87.*

1740. Jan. II. TAYLOR *against* DAVIDSON and BROOMFIELD.

No 4.

WHERE a tack was granted for fifteen years, commencing at Whitsunday 1740, for the pasture ground, and for the arable land at the Martinmas thereafter, and the tack-duty payable by way of foremail rent, the one half at Martinmas 1740, the other at Whitsunday 1741, and so furth termly; the crop reaped in harvest 1748 was found to be subject to the hypothec for the rent due at the Whitsunday preceding, and a petition against the interlocutor of an ordinary so finding, 'refused without answers.'

N. B. In reality the first years rent, though by agreement payable at the first Martinmas and Whitsunday after the entry, is paid for the year in which the first crop grows.

*Fol. Dic. v. I. p. 291. Kilkerran, (HYPOTHEC.) No 8. p. 276.*

1765. June 20. EARL OF MORTON *against* SOMMERVILLE.

No 5.

GEORGE SOMMERVILLE being creditor to Alexander Ranken, a tenant of the Earl of Morton's, in two different sums, executed two pouldings of his growing corns upon the 2d and 14th of June 1763.

Sequestration by the landlord will have effect in competition, only to the extent of his right of hypothec.

The Earl of Morton having brought an action against Ranken for his rents 1760, 1761, 1762, and 1763, applied for a sequestration of the whole growing corns, which was granted, and executed upon the 3d of June; and an arrestment laid by his Lordship, in the hands of the sheriff-clerk, on the same day.

Upon the 16th of June, the Earl recovered decree for the rents; and, upon Ranken's death, which happened soon after, brought an action of forthcoming, in which he called his representatives.

Afterwards, he obtained a warrant from the sheriff for selling the corns by auction, which was carried into execution upon the 30th of August, the corns