

The Letter of  
 a Fishing to solve the Denial of the Fishman's Escheat, who  
 had intromitted with the Profits to answer for each Years Tail Duty  
 to the extent of every Year's Intromission 4 July 1667 *Comming of All*  
 for contra Lundsane. But an Apprifer without Infeoffment or Possession, or any  
 Diligence for attaining Possession was found not to have the Benefit of Hypo-  
 thecation, of the Lands apprifed, against Merchants who had bought and intromitted  
 with a Tenants Victual, and granted Bond to the Heritor for the Price who  
 thereupon discharged the Tenants 29 July 1675 & *Pannair contra Lellisior*.  
 Because such an Apprifer is no Ways Dominus fundi. And tho' the Appri-  
 sing might have the Effect of a Judicial Assignation to the Rents, if still  
 in the Tenants Hands; it hath no Benefit of Hypothecation against Mer-  
 chants to reach the Price of the Victual of which the Tenants are discha-  
 Albert a Hypothecation upon the Cattle and other Stocking of the ground is but for  
 one Year at once, a competent discretionary Time must be allowed to  
 the Master after the Term of Payment of the Years Rent, for making his  
 Hypothecation effectual, which he cannot do during the course of the Term.  
 before the Rent is due. And if the Hypothecation were found to last only till the  
 next Day after the Term, Masters behoved to prosecute their Tenants for  
 their Rents the very Term Day which would be intolerable Anno 1671  
 every where esteemed a well paid Rent, if one Term be discharged before  
 another fall due. Therefore the Lords found that the Master hath three  
 Months after the Term of Payment to do Diligence upon his Hypothecation  
 against his Tenants and Intromitters January 1726 *Hopburn contra*  
*Chickinfor*. A Summons against Intromitters with the Fruits of  
 the ground for a Years Rent at the Heritors Instance, may be libelled  
 thus: Our Will is and we charge you, that ye lawfully summon B. as  
 who intromitted with the Fruits underwritten, extending to the Prices  
 aforesaid, which grew upon the Pursuers Lands of &c. in the Year &c.  
 and which by Law were hypothecate for the Rents of the said Year, to  
 compare he to answer at the Instance of &c. Master of the ground, and  
 whom the Rents of the said Lands were due and payable. Which Fruits  
 intromitted with by the Defenders extend to the particular Quantities and  
 Prices as following viz. That is to say, the said Defender to hear  
 and see himself decreed by Decree of our said Lords, to pay the Price  
 of the said Fruits at the Rates and Quantities libelled, conform to the  
 Laws and daily Ordinance of this our Realme according to Justice &c.  
 The proper Defences against this Action are 1. That the Rent was paid.  
 2. That the Time of intromitting the cause there remains sufficient Fruits  
 upon the ground for Payment of the Rent in whole or in Part. 3. That the  
 Defender intromitted by buying in publick Market, or acquired from a Bu-  
 yer there. 4. The Goods in Question were poinded by Letters of poinding  
 the ground for a real Debt preferable to the Masters Debt. 5. They

The Law of England no Goods or Chattels being on any Lands or Tenements by the Statute of 13 Ed. 1. c. 11. cap. 14.  
 The Statute of 13 Ed. 1. c. 11. cap. 14. enjoineth that the Statute of 13 Ed. 1. c. 11. cap. 14. shall be observed.

were restored to the Tenants before interding of the Cause.  
 Heritors of rented Houses have also a tacit Hypothecation for a Years  
 Rent upon *invecta et illata*, all the Tenants Movables in these Houses, and other  
 Mens Goods found there after the Term of Payment 7 Decemb. 1630 *Dick con-*  
*-tra Lands Hair Lib. 1. Tit. 13. s. 15. McDonzie Just. Lib. 2. Tit. 6. s. 12.* Be-  
 cause Houses have no Fruits. Which Hypothecation is extended against all Tenants  
 and Possessors of Tenements having no natural Fruits, as Tenants within  
 Burgh Tenants of Mills, coal pits Salt Houses and the like *Hair Lib. 1. Tit.*  
*25. s. 3. Tenants of Shops Warehouses Graneries l. 3. ff. in quib. caus. pig.*  
 But seeing the Rents of Houses within Burgh are not paid once at the Rent  
 of Land are, but twice yearly at the Term of Martinmas and Whitsunday.  
 It would seem not unreasonable that the tacit Hypothecation for such should ex-  
 tend only to Half a Years Rents. By the Civil Law the Movables which  
 Tenants have in the Places which they rent are engaged to the Landlord for  
 his Security not only of his Rent, but of the other consequences of his Lease,  
 such as Reparations if any have happened thro' the Fault of the Tenant,  
 and all Expenses lost and Damages which the Tenant may be liable to  
 on Account of his Lease *l. 2. ff. in quib. caus. pig. de Repar. mag. l. 1.*  
*invecta et illata lib. 2. ff. de iud. l. 1. ff. de iur. l. 1. ff. de iur. l. 1.*  
*invecta et illata.* No Doubt it extends to all the Possessions proper  
 brought into the House or left or Fardens for the Use thereof as household  
 Furniture Ornaments and Movable Stair Fed. or which he assigned always  
 to keep in it. But it is more reasonable if it extend to goods brought in  
 not in Order to be kept there for any Time but to be removed or sold as  
 soon as possible. The Civil Law excludes the Landlords Hypothecation from  
 such Goods as the Tenant put there only with a Designe to transport  
 them to another Place: as for Example a Sute of Hangings which he  
 had brought to send to another House *l. 7. ff. in quib. caus. pig. l. 32. infra.*  
*ff. de pig. & hypoth.* And if these were affected, Buyers from Merchants  
 out of their Shops might be liable for the Shop Rent. Again there is  
 no Reason that other Mens Goods imported to ones House should be  
 subject to a Hypothecation for the House Rent if carried out again before  
 the Term of Payment. But if such Goods be found there after the  
 Term, the Landlord may detain or poind them for his Rent, and the Cu-  
 stomers may blame themselves for not removing them in Time For of-  
 fering to depone upon the Right of Goods in another than the Owners  
 Possession, is relevant only to Stop poinding of Goods for the Rents of  
 Lands, and not to stop poinding of Goods in Houses for the Rents thereof  
 of Hair l. 1. Yet Hypothecation *invektorum* for House Rents was not  
 found to reach *Plenishing* contained in a written Disposition by the  
 Landlord