

cause, to one not creditor prior to the assignation; and so it was found at the instance of a substitute in the assignation to bar a conveyance in the assignee's contract of marriage.

No 83.

*Kilkerran*, (PERSONAL and TRANSMISSIBLE.) No 1. p. 396.

1746. July 23. EARL OF ROSEBERRY *against* GEDDES of Scotstoun, &c.

No 84.

THE Earl of Roseberry's estate being sequestrated by the LORDS at the suit of his creditors, and L. 100 Sterling yearly allowed to himself in name of aliment; upon a complaint by the Earl against certain of his creditors for having poinded his horse, which he affirmed to have been purchased by him with the money allowed for his aliment, the LORDS found, "That the horse being by the execution of poinding estimated at L. 9 Sterling, was not poindable, and ordained the poinder to restore."

The day before, the LORDS had found another horse of his poindable, because being of L. 50 Sterling value, such horse could not be presumed purchased by his aliment; but a horse of so low a value as L. 9 was what reasonably might be purchased out of the aliment for his use, and so was as little poindable as the aliment itself was arrestable.

*Kilkerran*, (ALIMENT and EDUCATION.) No 3. p. 22.

1748. January 7. ATCHISON *against* BENNY.

No 85.

ON the verbal report of Lord Elchies for advice, it was found, That the rule in our law books, that tacks not bearing to assignees cannot be assigned without consent of the heritor, does not extend to urban tenements; and that therefore a tack for 13 years of a house in Falkirk might be assigned or subset without consent of the proprietor. But in this the LORDS were not unanimous, as several were of opinion, that there is often no less an *electio persona* in the tack of a house than of land.

*Kilkerran*, (TACK.) No 5. p. 533.

\* \* D. Falconer reports this case :

A PERSON in Falkirk set a house for thirteen years to one Russel, who removing from the place, let it to Atchison; but the original landlord having sold the house to Benny, he hindered Atchison from taking possession, on this ground, that tacks were not assignable.

*Disputed*, Whether the rule extended to urban tenements.