

1639.

L. PINKELL *against* KENNEDY and INGLIS.

No 67.  
Found in  
conformity  
with Cun-  
ningham a-  
gainst Laird  
of Buchanan,  
No 63. p.  
8372.

L. PINKELL being made assignee by Alexander M'Culloch of Myrtoun, in and to an heritable security and bond granted by umquhile ——— Kennedy of Ardmillan, whereby he was obliged to infest his daughter, spouse to the said Alexander M'Culloch of Myrtoun, in an annualrent, redeemable by payment of 8000 merks, pursues for registration of the said bond. In the which action John Inglis, burgess of Edinburgh, compears, and produces horning against Myrtoun, and *alleges* the assignation made by him to the pursuer is null, being done in his fraud and prejudice, who is creditor to the cedent, and which cedent is at the horn at his instance, and yet remains at the horn for the same cause; and therefore by the act of Parliament 1592, the assignation is null. THE LORDS repelled the allegiance, because they found, that the act of Parliament did not militate, nor was intended against heritable rights, but that parties may dispone them, notwithstanding they were at the horn; for if the act were generally understood, as the words seems to purport, then none at the horn could dispone their lands, then horning should be as an inhibition, whereas the context of the act strikes only upon assignations of things escheatable.

Act. *Stuart et Johnston.*Alt. *Nicolson et Mowat.*Clerk, *Gibson.**Fol. Dic. v. 1. p. 557. Durie, p. 881.*


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#### DIVISION IV.

Litigious by denunciation upon apprising, and citation upon adjudication.

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#### S E C T. I.

Rights granted in consequence of an antecedent obligation.—Alienation after denunciation.—Adjudication led during the dependence of a ranking and sale.

1612. *June 16.*M'ADAM *against* HENDERSON.

No 68.

HE wha had ane contract registrate, containand ane procuratory of resignation, for infesting him in ane tenement, albeit the lands be denounced to be