ROCKVILLE. It is strange that a man should have the power of limiting the succession of a person with whom he has no connexion. Every heir of entail has an interest to see to its execution, according to the will of the entailer. If this is not held to be the case, a new clause will be inserted in all future entails, prohibiting, under an irritancy, any addition or supplement to them.

PRESIDENT. The acknowledged novelty of the case satisfies me that James Menzies had no power to make a new and an additional entail. Many instances must have occurred, where the heir in possession would have wished to add new substitutes; but, so far as appears, James Menzies is the first who ever attempted it. I am a friend to entails, but I am a moderate friend. So far as the entail does not tie down the heir of entail he may act; but still he must act as an heir of entail: he cannot impose fetters on any other heir. An intermediate heir of entail cannot oblige any after heir of entail to bear name and arms, by a new clause, which obligation might infer the forfeiture of another estate by such after heir. As to the decision in the case of *Cassillis*, I never approved of it. Many of the most eminent judges were against the decision; and a judge who voted for it [Lord Coalston, as the President told me,] took occasion, in an after case, to declare that his judgment was founded on the specialties in the case of *Cassillis*, and not on the general point.

On the 22d June 1785, "The Lords found that an heir of entail cannot impose additional fetters on after heirs of entail; but found that James Menzies was an institute, and not an heir of entail."

Act. Al. Wight. *Alt.* H. Erskine.

Hearing in presence.

1785. *June* 23. GILBERT M'MICKEN *against* HUGH M'ILWRAITH.

WRIT.

Signing by initials not valid, no witnesses being present, where the party is ignorant of writing.

[*Faculty Collection, IX.* 333; *Dictionary*, 16,820.]

JUSTICE-CLERK. The woman is said to have divested herself of her all by indorsing a bill with her initials. The indorsation might have been granted for a different cause, in order to enable her to claim amongst creditors.

ESKGROVE. There is no circumstance to support the credibility or the verity of the subscription.

MONBODDO. An indorsation by initials is good, if the party be wont to sign by initials: the bill is in the possession of the defender; that circumstance presumes property. I would allow a proof that the woman was wont to sign by initials, and of her having said that she had given the bill to the defender.

GARDENSTON. This is not a transaction of the nature of an indorsation; it is a gift.

PRESIDENT. Initials are no proper subscription; they are not probative in law: when the practice of signing by initials is clearly proved, then there may be proof of actual signing before witnesses. Here there is a transmission of property, a donation not *in re mercatoria.*

BRAXFIELD. Proof of subscribing by initials is not sufficient to support deeds. In deeds of importance, a party must sign, or notaries must sign for him. There is an exception as to what happens *in re mercatoria.* Still the deed, even in such a case, must be supported by extraneous proof.

On the 23d June 1785, "The Lords, in respect the defenders acknowledge that they cannot prove that the deceased Elizabeth M'Harg did actually adhibit her subscription by initials to the bill in question, sustained the objections stated by the pursuer against the validity of the said indorsation; and found that the defenders are accountable for the contents of the said bill;" adhering to the interlocutor of Lord Braxfield.

Act. Ch. Hay. *Alt.* A. M'Connochie.

Diss. Monboddo.

1785. *June* 28. HENRY RIDDEL and JOHN CAMPBELL, Trustees of DR ELLIOT, *against* WILLIAM MORRISON and COMPANY.

INSURANCE.

The proprietors of three ships procured an insurance on all of them. Before the result of the voyage was known, but, after one of the ships arrived at its destined port, the underwriter became bankrupt. On the safe arrival of the whole ships, his creditors raised an action against the insured for payment of the premium. The Court sustained the defence, that, by the underwriter's bankruptcy, he becoming unable to fulfil his engagement, the insured were entitled, for their own security, immediately to re-insure.

[*Fac. Coll. IX.* 342; *Dict.* 7118.]

BRAXFIELD. If the insured cannot, in case of loss, operate payment from the insurer, he may secure himself by re-insurance; the creditors of the insurer may, however, offer to find security for making good the loss; and, in that