

an heir of entail under the deed 1697, but a disponee, and therefore had powers to make such an entail." No. 53.

Lord Reporter, *Monboddo.*

Act. Lord Advocate *Campbell, Mackintosh, Wight.*

Alt. *Blair, H. Erskine, N. Fergusson.*

Clerk, *Menzies.*

C.

Fac. Coll. No. 215. p. 337.

1790. January 20. BRUCE HENDERSON *against* HENDERSON.

A condition in an entail, that the heirs should denude in the event of their succeeding to a particular estate, found to apply, in a question with the next heir, to the case of an heir already proprietor of that estate, when the tailzied succession opened to him; and found effectual, though not fenced with prohibitory, irritant, and resolute clauses.

No. 54.

Fac. Coll.

* * This case is No. 16. p. 4215. *voce* FIAR.

1791. December. WEBSTER *against* FARQUHAR.

Thomas Farquhar, heir of entail in the estate of Pitscandlie, let a nineteen years lease of forty acres to Webster, with liberty to the tenant to build barn, byre, stable, and other houses, which the tenant might judge necessary for the farm, to be appraised at the end of the lease, and the value paid by the granter and his heirs and successors in the lands. Action being brought by the tenant for payment of the value of his buildings, appraised at £.74, against a succeeding heir of entail, the Lords found the defender not liable. See APPENDIX.

No. 55.

Fol. Dic. v. 4. p. 343.

1795. May 13.

WILLIAM GRAHAM *against* The CREDITORS OF HARRY GRAHAM.

Harry Graham, senior, in 1737, executed a strict entail of the estate of Hourstoun. In 1738, he was succeeded by his son Charles Graham, who took infestment on the entail.

In 1744, Charles was succeeded by his son Harry Graham, junior, who possessed the estate in apparency till his death in 1776.

The entail was recorded in the register of tailzies in 1773, upon an application from the substitutes.

No. 56.

A person having for many years possessed in apparency, and having died without making up titles to an