

## C O L L A T I O N .

1553. July 13.

ANDREW LAW *against* ALEXANDER LAW.

**A**NENT the action pursued be A. against R. Law, his brother and his airs for intromitting and taking ane bairnes part of gear in hurt of the rest of the bairnes, he beand air and receivand his father's heritage, together with airship, without he had casten in his airship, with the rest of the bairnes' guidis to be parted equally betwixt the bairnes. It was excepted be the said Robert, that he might justly have his bairnes part of guidis, notwithstanding his airship; because, after his father's decease, there was an elder brother than he who was air to his father, and sua he fell his bairnes part of the guidis be that reason. It was *replyt* againe be the said Alexander, That the elder brother died soon after his father's deceise, and was never servit nor enterit air to his father, nor never gat sasine of his lands nor receivit no airship, but died before ever the guidis were divydit, and sua the said Robert was heir to his father and received his airship; whilk reply was admittit and given to the said Alexander's prooffe, notwithstanding the said Robert his allegiance.

No. 1.

The heir can have no part of the moveables (excepting heirship), unless he be willing to collate.

1554. April 24.—ANE burges dieand and leivand behinde him sundrie sones, the eldest dieand unentered to his father's lands, the nixt sone entrand as air to his father shall have no bairns part of goods and his father's lands baith, notwithstanding he hade ane elder brother the time of his father's decease, whilk died non enterit as said is, whilk was practised betwixt Alexander Law and Robert Law.

*Maitland, MS. p. 16. & 17.*

\* \* Balfour reports the same case :

NA PERSON succeidand as air to his father or predecessouris landis and airship guidis, aucht and sould have ony part of ony remanent movabill guidis or geir quhilk pertenet to his father, or predecessour, the time of his deceis, except he wald cast in and confer his haill airship guidis, with the rest of the said haill movabill guidis and geir altogidder, that equal partage might be maid thairof, betwix him and the rest of the bairnis.

*Fol. Dic. v. 1. p. 149. Balfour, (AIR.) p. 233.*