ables is properly *ab intestato*, where the heir-male is preferred in the heritage to the younger sons or daughters. It is true, if a tailzie were made in favours of the heirs-male, who would have the preference *ab intestato*, the express will of the father would not alter the destination of law as to the moveables, which was left to the legal succession: But suppose a father should tailzie his heritable estate to a second or third son not *alioqui successurus*, such an heir of tailzie, would not be excluded from his share of the moveables, as nearest of kin. No 15.

'The Lords found, That the pursuer and defenders being equally entitled to the succession of heritage and moveables *ab intestato*, the tailzie did not exclude the pursuer from her legal claim to the executry.'

*Fol. Dic. v.* 1. *p.* 149. *Rem. Dec. v.* 1. *No* 20. *p.* 42.

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1737. *November* 18. Beg *against* Lepraick. No 16.

It was provided in a Lady's contract of marriage, 'That she should be a 'child of the house at the time of her father's decease.' Collation was thus in effect prohibited; consequently it did not take place. *See* No 4. p. 2367.

*Fol. Dic. v.* 1. *p.* 149.

*** *See* This case *voce* Forisfamiliation.

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1742. *December* 2.

Chancellor *against* Jean Chancellor his Sister, and her Husband.

No 17.

The heir is, upon collating the heritage, entitled to his share of the moveables, not only in the case of children succeeding to their father, but also in the collateral succession; and therefore it was found, that a brother, who was heir to his sister in a sum heritably secured, was, upon collating said heritage, entitled to his equal share of her moveables with his surviving sister.

*Fol. Dic. v.* 3. *p.* 133. *Kilkerran, No* 1. *p.* 124.

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1787. *November* 15.

John Hay Balfour, and Others, *against* Miss Henrietta Scott.

No 18. Heirs, whether *alioqui successuri*, or not, and whether *ab intestato*, or *provisione hominis*, must collate, in order to claim any share of the moveable succession.

Mr Scott of Scotstarvet executed a settlement, by which he disponed his estate 'to himself in liferent, and to David, his eldest son, &c. in fee; whom 'failing, to his second son, John, &c.; whom failing, to his own other heirs and 'assignees whomsoever; 'the eldest heir-female excluding heirs-portioners, and "succeeding without division,' through the whole course of succession in all 'time coming.' And a proviso was subjoined, that the several male-heirs, and the husbands of the female heirs, were to bear the name and arms of the disponer's family.

An heir is not bound to collate heritage in Scotland,

A charter, with infeftment, having followed on this disposition, David Scott possessed the estate till his death under that title. His property then, besides this landed estate, consisted of government-securities to a large amount, of some