

No. 16. Cap. 88, 97. Stat. Rob. III. C. 3. The succession of brothers to a sister was a case so exactly similar, that the analogy of the law could not fail to apply the same rule, unless it could be shewn either that there was some substantial reason why it should not, or that such extension was expressly prohibited. Were this rule not adopted in the present case, the succession, according to the petitioner's argument, would favour the right of primogeniture; which being itself a special privilege, was therefore to be strictly interpreted, and not carried farther than the very letter of the law authorised. The rule of succession, maintained in the present instance, in favour of the heir of conquest, though it might not perhaps hitherto have been brought into question and decided on, was expressly supported by the following authorities; Craig, L. 2. Dieg. 15. Stair, B. 3. Tit. 4. § 33. Bankton, B. 3. Tit. 4. § 21.

At advising, the decision, 7th July, 1675, Lord Halkerton, reported both by Stair and Dirleton, No. 3. p. 5605. *voce* HERITAGE AND CONQUEST, was mentioned from the Bench as in point; and the Lords adhered to the Lord Ordinary's judgment.

Lord Ordinary, *Pitfour*.  
Clerk, *Tait*.

For John Cuninghame, *A. Belsches*  
For Archibald Cuninghame, *Lockhart*.

R. H.

*Fac. Coll. No. 56. p. 164.*

No. 17.

1787. November 15. HAY BALFOUR *against* SCOTT.

In the succession to the estate of Scotstarvest, the Lords found, That heirs, whether *alioquin successuri* or not, and whether *ab intestato* or by special destination, must collate before they are entitled to claim any share of the moveable succession.

*Fol. Dic. v. 4. p. 304.*

\* \* \* This case is No. 18. p. 2379. *voce* COLLATION.

No. 18.

1787. November 28. MACAW *against* MACAW.

The Lords found, that the privilege of collation is only competent to the heir when he is likewise one of the nearest of kin, and entitled in that capacity, if there had been no heritage, to a share of the executry.

*Fol. Dic. v. 4. p. 304.*

\* \* \* This case is No. 19. p. 2383. *voce* COLLATION.