

No 7.

The Lord Ordinary repelled the defender's claim to a bull, and found in respect of Balfour's Practics, p. 234.* that in virtue of his right to heirship moveables, he can claim only one horse.

A reclaiming petition against this interlocutor was refused, as to the defender's right to a bull, and ordered to be answered respecting the claim to a plough of horses. At advising the cause, it was

Observed on the Bench: Although the heir is entitled to two oxen, it does not follow, that he can also claim two horses. When heirship moveables were first introduced, oxen were used only for draught, and a single ox therefore would have been of little service. But a single horse must have been always useful for many purposes.

The COURT, with only one dissenting voice, adhered to the Lord Ordinary's interlocutor.

Lord Ordinary, *Dreghorn.* Act. *Hay.* Alt. *Bell.* Clerk, *Sir Ja. Colquhoun.*
R. D. *Fol. Dic. v. 3. p. 264.* *Fac. Col. No 64. p. 141.*

S E C T. II.

Who entitled to have Heirship Moveables.

1510. February 21. A. against B.

No 8.

ONY man deceissand quha hes had twa wives, or ma, with bairnis and successioun with thame, the first wife's eldest sone sall have his hail airschip of all movabill gudis quhilk pertenit to his father, and was in his possessioun the time of his deceis.

Balfour, (AIRSCHIP GUDIS.) No 3, p. 236.

1542. May 23. KINCRAIGS against AYTON.

No 9.

No heirship found due to the heir of a dignified clergyman who was not a prelate.

IN ane cause of airschip, movit be ane father, brother of Mr James Kincraigs, umquhil dean of Aberdeen, and Provost of the Kirkheugh of St Andrew's, against Mr John Ayton and his colleague, executors to the said Mr James, the LORDS *definitive* decernit the pretendit air aught na airschip goods, because of the practique of Scotland na kirkman's (*licet sit dignitate ecclesiastica*) air

* At this place in Balfour, there is a long list of the particular articles which had been decided to be heirship moveables, which it would be superfluous to insert here.