

## S E C T. III.

## In what cases not claimable.

1480. June 27. JOHN JOHNSTON *against* GAWIN JOHNSTON.

No 27.

GIF ony man alledgeand him to be air to ony uther, clamis ony airschip gudis, and it happin the exceptioun of bastardrie to be objectit aganis him befor the temporal or secular judge, the judge sall refer the knowlege thair of to the spiritual judge : And gif bastardrie be sufficientlie provin aganis him befor the spiritual judge, the temporal judge sall decern na airschip to pertene to him, because ane bastard may not be ane air, nor crave airschip gudis.

*Balfour, (AIRSCHIP GUDIS.) No 6. p. 236.*

1540. March 8. JANET SCOT *against* N. BLAIR.

No 28.

ALBEIT that ane be servit air general to ony of his predicesouris, as to prelat, baron, or burges, zit nevertheles gif he be not servit air to him of sum landis, or sum immovabill gudis, he may not clame ony airschip gudis ; because in this cais all the movabill gudis pertenis to the executouris, without ony deduction or defalcation of airschip.

*Balfour, (AIRSCHIP GUDIS.) No 5. p. 236.*

1583. February. LAIRD of CRAIG *against* LAIRD of POWRIE, OGILVIE.

No 29.

THE Laird of Powrie, Ogilvie, being pursued by the Laird of Craig, for deliverance of ane house, and fortalice of the Craig, it was *alleged* be Ogilvie, That Roger Wood, father to the Laird, and to whom he was heir, *aut saltem pro hærede se gessisset*, had set to him tack and assedation of the Mains of the Craig, with the tower and fortalice of the same, *et sic quem de evictione tenet actionem eund, &c.* he qualified *pro hærede gerere*, that the said Laird of Craig had introrried with the heirship goods, such as beds, boards, ploughs, harrows and horse, with the place pertaining to his umquhile father, called \_\_\_\_\_ . It was *answered*, That the excipient could not be heard to allege introrried with any heirship goods, because the father of the pursuer, Roger Wood, deceased the King's rebel, and at the horn ; and so if any goods he had, the same pertained to the King's Majesty and his treasurer, and na other per-

A person who dies at the horn, will have no heirship moveables.