No 3.

1527. *March* 27. BROWN *against* BROWN.

NA schip or boit pertening to ony man the time of his deceis, may be askit or cravit be his air as airschip, be ressoun the samin on na wayis pertenis to him in respect of airschip.

Balfour, (AIRSCHIP GUDIS.) *No* 1. *p.* 235.

No 4.

1575. *November* 10. LORD DRUMMOND *against* The LADY.

THE Lord Drummond persewit his mother for the hail tapestrie that hang in Drummond, as airship guids, and therefore to be deliverit to him as aire to his father; at the least, the tapestrie that hang in the best house; notwithstanding the LORDS fand that he should have but ane piece onlie of the tapestrie, and that the best; and siklike the best pavilion, and no more, to pertain to him as airship.

Fol. Dic. v. 1. *p.* 364. *Colvill, MS. p.* 248.

*** Balfour reports the same case:

GIF he that is deceist have divers and sindrie tapestries, the air may not acclame as airship, bot allenarlie the best piece of the samin: And siklike gif the deid have divers and sindrie pavilions pertening to him the time of his deceis, the best pavilion allenarlie pertenis to the air.

Balfour, (AIRSHIP GUIDIS.) *No* 1. *p.* 235.

No 5.

Heirship found to comprehend six golden buttons; and, if the defunct had any number of oxen, it was found that the heirship was a yoke: Found also, that the heir would get his heirship out of steelbow oxen, if the defunct had no other oxen.

1609. *November* 4. BOYD *against* RUSSEL.

IN an action pursued by Mr Robert Boyd, advocate, against his mother, and Mr John Russel, now her spouse, for delivery to him of his heirship goods, the LORDS found, that his summons was relevant, claiming six golden buttons which his father had upon his skin coat; farther, it was found, that the heir would get a yoke of oxen if the defunct had eight. Thereafter, it was *alleged* by the defenders, That they ought to be assoilzied from the heirship oxen, because the defunct had no labouring in his own hand, nor oxen in his possession at the time of his decease, and therefore the heir could not fall to any heirship oxen. It was *answered*, That he had set his mains in tack, with eight oxen in steelbow; which oxen pertained to him, and the heir fell to two of them in heirship; and, therefore, his mother having intromitted with them after his father's decease, should make two of them furthcoming to the pursuer as heirship.—THE LORDS, reasoning upon that matter of steelbow oxen, considered that oxen set

in steelbow with a room, became the tenant's in such set, as he was not obliged to render the same oxen again, but as many as good, or the price thereof, and had power to sell or dispone upon the steelbow oxen at his pleasure; whereby it would appear that they were not the master's goods, but that he had only right to the price thereof after the expiring of the set. Others thought, that the tenant had only the use of them, and not the property; in so far as, if the tenant went to the horn, the steelbow goods would not pertain to the donatar of his escheat, but, on the contrary, they would belong to the donatar of the master's escheat going to the horn; likeas they would fall under the master's testament. And albeit it was *alleged* by this defender, That they were confirmed in the defunct's testament, yet the LORDS found that the heir should have a yoke of them as heirship. No 5.

Fol. Dic. v. 1. *p.* 364. *Haddington, MS. No* 1636.

1611. *January* 19. REID *against* THOMSON.

No 6.

THE shell of a salt-pan found not to be heirship, but to appertain to the executors by a decreet of the Commissaries of Edinburgh, produced before the Lords by Mr Humphry Blenschiel.

Fol. Dic. v. 1. *p.* 365. *Haddington, MS. No* 2106.

1793. *June* 19. DAVID HEPBURN *against* WILLIAM SKIRVING.

No 7.
The heir has right only to a single horse, and having got an ox and a cow, he is not entitled to a bull.

WILLIAM SKIRVING, as heir of James Skirving his brother, intromitted with part of his moveable effects. David Hepburn, in right of his wife, who was sister of James, and one of his nearest in kin, brought an action against William, to make him account for her share of the executry of her deceased brother.

In accounting the defender *insisted*, that he was entitled to retain, as heirship moveables, a plough of horses, and an ox, a cow and a bull.

The pursuer denied his right to a bull, and quoted the following authorities, in order to show that he was only entitled to one horse; Balfour's Practics, p. 234.; 1474, c. 53.; 10th November 1575, Lord Drummond, No 4. p. 5386.; Erskine, b. 3. tit. 8. § 17.

The defender, on the other hand, *argued*, 1*mo*, That the heir was entitled to a yoke of oxen; Stair, b. 3. tit. 5. § 9.; Bankt. b. 3. tit. 4. § 6.; and that Erskine, b. 3. tit. 8. § 18. considers a yoke to be 'as many as make a plough,' and that therefore, from analogy, he was also entitled to a plough of horses; Stewart's Answers to Dirleton, p. 214.

2*do*, That he was entitled to the 'best of ilka thing,' and consequently to a bull, as being essentially different from an ox.