

FERRY-BOAT.

1731. December 22. TARBET *against* BOGLE.

No 1.

WHERE a party has right to a ferry-boat, established by grant or prescription, it is not in the power of others who may have a right of fishing upon the same part of the water, to interfere with the proprietor of the ferry-boat, by carrying over passengers for hire. Upon this footing the LORDS found, That the other heritors might transport themselves and families, or others gratuitously, in their coble-boats, but not for hire. And in this, ferry-boats are upon the same footing with fairs; both of them imply an exclusive privilege, otherwise they could not be kept up. *See APPENDIX.*

Fol. Dic. v. 1. p. 295.

1755. February 7.

MAGISTRATES of MONTROSE *against* SCOTT of Rossie.

No 2.

SCOTT of Rossie having a right to a ferry upon the river of South Esk, opposite to the town of Montrôse, found it necessary, upon the increase of wheel-machines, and upon other rational considerations, to heighten the accustomed fare. And for that end he applied to the quarter sessions, and obtained their authority to exact the several sums contained in a table laid before them. A bill of suspension, offered for the Town of Montrose, being refused by the Ordinary, the matter was brought before the Court by petition, which, with the answers, being advised, the Court were pretty unanimous in the following points; *1mo*, That the grant of a ferry implies a power of imposing a duty *pro opere*; *2do*, That a ferry is a patrimonial right upon which moderate profits

The proprietor of a ferry-boat may, upon rational considerations, heighten the accustomed fare.

No 2. may be made; *zto*, If exorbitant duties are laid on, they may be regulated by the justices, to whom the inspection of ferries, as well as of highways, is committed.

‘ Upon the whole, the duties in this case were not reckoned exorbitant; and, therefore, the COURT was of opinion, that the Ordinary did right in refusing the bill.’

Scl. Dec. No 82. p. 107.

See APPENDIX.