

No. 2. 1666. June 26. LORD WEDDERBURN *against* KING.

FOUND, That the service of weekly carriage of fish to the superior's house by his vassal being *onus personale*, is only due if required.

Fol. Dic. v. 2. p. 372. Newbyth.

* * * This case is No. 2. p. 2256. *voce* CLAUSE.

1693. December 13.
FEUERS of KINROSS *against* SIR WILLIAM BRUCE.

No. 3. FOUND, That carriages, and other such services contained in a feu-charter, prescribe every year if they be not annually required, because the vassal may have horses for single carriages that cannot give double ones; but this was not extended to kain-fowls and other casualties, which may be sought at any time, if not cut off by the triennial prescription.

Fol. Dic. v. 2. p. 372. Fountainhall.

* * * This case is No. 19. p. 13071. *voce* PUBLIC BURDEN.

1734. February 7.
HENDERSONS *against* HENDERSON of Fordel.

No. 4.

IN a contract of marriage the husband becomes bound to deliver to his future spouse weekly, during all the days of her life after his decease, upon any of his coal-hills nearest her dwelling and residence for the time, twelve loads of coals free of all expense. In a pursuit for these coals, at the instance of the wife's executors, for several years that she had made no demand for them, being provided *aliunde*, the defence was, That this was of the nature of a service similar to an obligation to win peats, which admits of no value, if not demanded. Answered, The coals were *de facto* sold by the heir, and he ought to account for the price. Replied, He could have win as many coals as would have served the liferentrix, and at the same time have answered all the sale that he could find for his coals, so that it cannot be said he sold the liferentrix's coals. Had she made the demand, he would have caused bring up twelve loads more per week than *de facto* he brought up; and as she made no demand, the coals that would have been her's remain in the coal-heugh to this day. The Lords notwithstanding sustained the claim. See APPENDIX.

Fol. Dic. v. 2. p. 372.