

No. 233. but, upon account whereof, it is certain there could be no claim for deductions, as the tack stands.

The Lords found, That the clause, "and other deductions whatsoever, &c. does not preclude the tacksmen from being allowed the payments made by them of feu-duties and ground annuals, in their articles of discharge.

*C. Home, No. 72. p. 122.*

No. 234. 1737. December 15. WALLACE *against* FERGUSON.

A vassal who was bound by the *reddendo* of his charter to pay yearly a certain quantity of capons and poultry, having, past memory of man, been in use and wont of paying no more but eight pennies over head for the same; in a charge for the *ipsa corpora*, this converted price was found to be the rule for by-gones, but not in time coming. See APPENDIX.

*Fol. Dic. v. 2. p. 427.*

No. 235. 1751. February 5. The EARL of PANMUIR *against* JAMES MORGAN.

Tacksmen cannot free subtenants from services due for their possessions to third parties.

Margaret Countess of Panmuir obtained a tack, 24th April, 1724, from the York-Buildings Company, of the manor-place of Panmuir, with the services payable by the seven cottars of Guildie, being the old town of Panmuir, and the nine pendiclars of the new town of Panmuir; the right to which tack came into the person of William Earl of Panmuir.

Garden of Troup, in 1728, obtained a tack of part of the estate, including the cot-town and new town, with exception from the warrandice of the services and carriages payable by the possessors of these towns; and, 30th December, 1747, subset the lands of Balhill, belonging to the new town, to James Morgan, who, besides his rent, became bound to "perform such services, vicarage, local bolls, multure, knaveship, or other dues whatever, payable to minister, schoolmaster, kirk, mill, ground-officer, and smith, or others, as the lands set had heretofore been in use of."

The Earl of Panmuir obtained decret against Morgan, before the Sheriff of Forfar, for service of carriage used to be performed for his possession to the manor-place; and a bill of suspension was refused by the Lord Ordinary.

Pleaded, in a reclaiming bill: By an act 20. Geo. II. tenants are liable for no further services than are expressed in their tacks.

Answered: Setters of tacks cannot free their tenants from services due for their possessions to third parties.

The Lords adhered.

Act. *H. Home.*

Alt. *T. Hay.*

Clerk, *Kirkpatrick.*

*D. Falconer, v. 2. No. 191. p. 229.*