

No. 2.
letter had given under his hand, that he had received (not in yearly duty, but *unica contextu*) a great sum for the same from the tacksman.

tractuum similitudinem. Answered, That albeit *merces* was not in this tack conferred into an yearly duty, yet it was paid *unico contextu et una vice*, the which could not take away the action founded upon the tack. The Lords found, that the tack of the same form as it was produced, was sufficient to keep the defender in possession against the setter thereof; and if he would have it to be made null, he behoved to pursue it by way of action.

Fol. Dic. v. 2. p. 418. Colvil MS. p. 460.

1605. July 31.

RESTALRIG against CRAW.

No. 3.
A tack, after loosing of redeemed land, was found not to be null, although it contained no duty, it having been provided by the reversion to be let mail free.

Robert Logan, sometime of Restalrig, pursued one Craw to remove. It was excepted, that the defender had tack for terms to run set by the pursuer. It was replied, That the tack was null, wanting a yearly duty. It was answered, That the tack needed no duty, because the pursuer had set the same expressly mail free, and that it was a tack after redemption provided by the reversion of the lands; and therefore the very grant of the lands redeemed was *loco pretii*, and of the law, *locatio subsisted, sive contineat pretium, sive aliquid loco pretii*. In respect whereof, the Lords admitted the exception and duply instantly verified by production of the tack.

Fol. Dic. v. 2. p. 418. Haddington MS. No. 962.

1610. July 11.

SIR JA. LUNDY against The SMITH of LUNDY.

No. 4.

A contract being made by the Laird of Lundy, whereby he bound him to suffer a Smith to bruik a piece of his land during his life-time, he working the smith-work of Lundy, as well in shoeing of his horses as making and mending the plough's graith, it was found to be a lawful tack; and that his work was *merces locationis*, and sufficient to maintain him in possession against a singular successor, viz. Sir James Sundy.

Fol. Dic. v. 2. p. 418. Haddington MS. No. 1952.

LAIRD OF DALZIEL against WEIRS.

No. 5.

The Laird of Dalziel pursues two Weirs, to whom he had set a room for nine years, to pass a contract thereupon. They entered a servant to keep the goods on the room. Dalziel pursues them for perfecting of the contract anent the nine years tack. They resile. The Lords, in respect of the entry to the possession, ordain them to pay the duty for one year.

Auchinleck MS. p. 230.