

Aggreement and Submission
Between
James, Earl of Wemyss
And
James Yuill
1752 Sc20/36/9

Whereas By tack Entered into Between Adolphus Hay as factor for And on behalf of the Right Honourable James Earl of Wemyfs on the one part and James Youl mert and late Baillie of Wester Wemyfs on the other part The Said Adolphus Hay Did set to the sd James Youl All and Hail the said Earl's inclosure called the wood park of Wemyfs with the over and nether banks and Grafs in the wood and the pertinents thereof and the Dovecote in the Chappell garden All lying in the Barony and Sherriffdome of Fife Reserving to the sd Earl the trees & nuts in the wood And that for the space of fifteen years Commencing from Michaelmas jaivij & forty two For which Lett the said James Yuill became bound to pay to the sd James Earl of Wemyss fifteen pound Sterline of real yearly for each of the first four years of the sd tack And twenty pounds like money of real Yearly for each of the Subsequent years thereof and is further amongst other things bound to keep up and maintain the Dykes and Gates of the said park & inclosure and leave them in as good Case as they were at the entry thereto and whereas by reason and upon occasion of the said James Earl of Wemyss his haveing cut the trees on that part of the ground aforesaid called the wood (Which was inclosed at the time of setting the foresaid tack And continues so to be) The said James Yuill as he alleedges has for Sometime past been excluded from all possession of or benifite from the Grass therein and the preservation of the Stooll & Grouth of Young trees therein will not admitt of the sd James Yuills having the benifite of the grass on the sd ground in time coming (as he formerly had it) by pasturing beasts thereon And whereas also the said Earl having cutt some and intending to cutt the rest of the trees growing on certain other parts of the Grounds aforesaid called the bank and the Dean which are not enclosed the preservation of the Stooll & Grouths of the young trees Requests that the sd James Yuil should be excluded from the benefite of the Grafs amongst them And the preserving to the said James Yuil of his rights over the other parts of the Grounds sett to him on which there are no trees and has freedom of pasturing beasts on the Grafs thereof requires that the sd parks whereon the trees are growing should be sufficiently fenced now it is Aggreed between the sd right honourable James Earl of Wemyss and the Sd James Yuill as follows That is to say the said James Yuil hereby approves of what has hitherto been done by the sd Earl or any person on his lordships accounts or behalfs in excluding him from pasturing upon the Grafs in the inclosed wood as aforesaid or in those parts of the Bank or Dean on which there are trees cut for any time bygone since the Commencement of the tack aforesaid And Renunes quits and gives up All right & title which he hath or may pretend to have any possession or benefite by the Grafs in the foresaid part heretofore inclosed as said is or in those parts of the bank & Dean upon which

trees are growing and which shall be inclosed by the said Earl for the years and terms of the forsaid tack yet to run And the said Earl binds and obliges himself to make and keep up ane inclosure or fence around the parts of the Bank & Dean on which the trees are growing sufficient for debarring cattle or beasts from getting into the sd Grounds or any ... therin to the end that the said James Yuil May have the full and free use & pasturing upon or other ways of using the Grass on the part without the sd fences and that without the hazard of trespassing on the sd enclosed parks or the timber growing thereon Declaring that the sd James Yuil shale not be Lyable or answerable for any Damage done by such trespasses if they shall happen throu Any faillure or Defect with sd fences After Submation to the sd Earl or his factor to repair the same and also the said Earl binds and obliges himself and his forsaid to make the present fences between the wood and the Grounds to be still possessed by the sd James Yuill on the North and West sides of the said wood Onco Sufficient for the purpose aforesaid And the sd James Yuil binds & obliges him and his foresaids after that is done to keep the sd fences in the like Case And shall be answerable for any damage done.....thereof and both sd parties hereby submit & Refer to David Beaton of Viccarsgrange sole Arbiter Mutually & Indifferonlly Chosen by them What Discount and allowances shall be given to the sd James Earl of Wemyss to the sd James Yuill out of the.....tack duly payable by the sd James Yuill to his Lordship for the whole Subjects sett to him by the said tack above mentioned Notouly* As to bygones but for each year in time Comeing during the currency of the said tack In consideration of his wanting the grass aforesaid in the parts of the Grounds Sett to him inclosed & to be inclosed as aforesaid and also how and in what manner the Inclosures and fences to be made or repaired by the Earl shall be made Completed or repaired respective. And how & in what manner the sd James Yuil shall have free & convenient entry & ish from thefe parts of the subjects Sett to him by the forsd tack of which he is still to continue possession and whatever the said Arbiter shall determine in relation to the sd points & given under his hand betwixt & the.....Day of.....next to come. Both the sd parties bind & oblige them to stand to the Same Under penalty of tou pounds Sterline to be paid by the party fail to the party observer Attour performance. Consenting to the registration hereof and of the decret arbitrall to follow hereupon in the books of Counsall & Sefsion or many other Judges books Competent that Letters of horning on six days Charge & all other Exells needful may pafs thereon and to that effect Constitute.

Their prors In witnes yrof these presents written on this and the two preceeding pages of stampt paper by William Forbes writer to the Signet Are subscribed by the sd Earl of Wemyss and James Yuil as follows Vist. By the said Earl of Wemyss at Norton in England the twenty first day of September jaivij & fifty one years before these witnesses William Murdoch and Charles Morifon both his Lordships servants And by the said James Yuil Att Weft Wemyss the second day of October one thousand and seven hundred and fifty one years before these Witnefses Mr John Durhame Supervisor of the Salt Duty att Kirkaldy and James Donaldfon Factor for the said Earl the date Witnefses names and designations to the

Subscription of the said James Yuil being filled in by the said James Donaldfon
Wemyfs

James Youell

Willm Murdoch witness

Charles Morifon Witness

John Durhame witnefs

James Donaldfon witnes

* Perhaps from notour - determinedly presistent?