

QUOD AB INITIO VITIOSUM.

S E C T. I.

Convalescence of a null right.

1543. July 31. STEWART *against* LAIRD of LUSS.

No 1.

THE LORDS absolved the Laird of Luss from the action of non-entry of the lands of ———, intented against him by Edward Stewart, because his gift of non-entry bore, that the King had given him the profits dues and duties of the lands being then in his Grace's hands by reason of non-entry, and in verity that the lands were feu by heritable sasine, albeit the old retour thereof nevertheless reduced, and so the lands thereof in non-entry; but or the reduction of the retour and sasines, they were not in non-entry, viz. the time that he obtained his gift, which extended not the non-entry of these lands that then was, or should happen afterwards in any time to be, and so the LORDS decerned against the said Edward, and absolved his adversary from the lands.

*Fol. Dic. v. 2. p. 300. Sinclair, MS. p. 55.*

1669. January 19. EARL of ATHOLE *against* ROBERTSON.

A TACK of teinds granted by a parson without consent of the patron, was sustained, the tack being afterward assigned to the patron himself.

No 2.

*Fol. Dic. v. 2. p. 301. Stair. Gosford.*

\*\*\* This case is No 34. p. 7804., *voce* JUS TERTII.