

## S E C T. IV.

Deed partly *ultra vires*.

1668. July 18: MR GEORGE JOHNSTON *against* PARISHIONERS of HONDONY.

No 20.

MR GEORGE JOHNSTON having right to a tack set by the parson of Hondony for his lifetime, and three years thereafter, and having used inhibition, pursues the possessors of the lands, who *alleged* absolvitor, because the tack is null, being set for more than three years, without consent of the patron, by the act 15th Parliament 1621. It was *answered*, that the pursuer restricts his tack to three years. The defender opposed the act of Parliament, declaring such tacks simply null, as were set for more than three years.

THE LORDS sustained the tack for three years, as allowed by the act of Parliament.

*Fol. Dic. v. 1. p. 464. Stair, v. 1. p. 555.*

\* \* \* Gosford reports this case :

MR JAMES CRAIG being parson and vicar of the kirk of Howdon, did grant a tack to Mr George Johnston, of the whole teinds of the parish for his lifetime, and three years thereafter; whereupon the tacksman pursuing some of the heritors, it was *alleged*, that the tack was null *ipso jure*, being set without consent of the patron, conform to the act of Parliament 1621. This defence was repelled, because the pursuer declared that he restricted his tack to three years, for which time it was lawful to the parson to set a tack, without consent of the patron, by the said act of Parliament.

*Gosford, MS. No 40. p. 14.*

1669. July 13. OLD COLLEGE of Aberdeen *against* The TOWN of Aberdeen.

No 21.

A COLLEGE having let a perpetual tack of their lands for 50 merks yearly, which were yearly worth 200 merks, and the same being objected to for want of power in the granters, who could not give such a tack without an adequate onerous cause, the same was found totally null, and refused to be sustained for any limited time or higher duty.

*Fol. Dic. v. 1. p. 464. Stair. Gosford.*

\* \* \* This case is No 27. p. 2533, *voce* COMMUNITY.