No 77. Indeed, the annexing was meant to be equally broad with the vesting act. The former takes no notice of moveable property, because in no instance were the moveable funds of the forfeited person sufficient to pay his debts; but it is impossible to imagine any heritable right which it does not include. The lease in question was a right of tithes; it came under the class of 'other like heritages;' and it was surveyed by the Barons of Exchequer. If after the date of that act it had been the subject of enquiry, whether the estate of Cromarty was sufficient to pay the debts of the Earl, this lease, which was to last for 170 years, would have been included in the calculation.

The lease to Sir John Gordon was meant as a favour to his sister, and was granted without examination.

A great majority of the Court, convinced by the arguments stated for Mr Mackenzie, concurred in finding, 'That the tack of tithes in question was annexed to the Crown, and restored to the family of Cromarty.' Some other points in the cause were remitted to the Lord Ordinary.

A reclaiming petition was refused, without answers, on the 5th June 1793.

Lord Reporter, *Craig.* Act. *Solicitor of Tithes Balfour, M. Ross.* Alt. *R. Craigie.* Clerk, *Menzies.*

D. D. *Fac. Col. No 51. p. 105.*

No 78. 1757. *February* 27. M'LEOD *against* ALLAN.

A CREDITOR to a person whose estate was forfeited, entered his claim in terms of the vesting act, which was sustained to the extent of the principal and interest, but not for his expenses, for which the Crown is not liable. The creditor brought an action for his expenses against a person who was cautioner in the bond for the forfeiting person; to which it was *objected*, That the vesting act, which declares that the Crown is not liable in expenses, must of consequence imply, that he the cautioner cannot be liable, otherwise he must have relief against the Crown, which would defeat the enactment of the statute, and in effect make the Crown liable in the expenses.——THE LORDS found the cautioner liable.

Fol. Dic. v. 3. p. 237. Fac. Col.

*** *See* This case, No 30. p. 2101.