

## S E C T. X.

Act 20th Geo. II. Cap. 20.

1748. *January 23.* The EARL OF FINDLATER, Supplicant:

IT is statued by an act 20th Geo. II. that any person who continued loyal during the late rebellion, and whose house had been invaded by the rebels, and his writs and evidents, or any part thereof, carried off or destroyed, might, on or before the 20th July 1747, apply by petition to the Court of Session; and the said application being published in the manner directed by the act, might bring proof of the allegiance; which being found, and the procedure recorded, no claim of debt, to be brought against the petitioner or his heirs after the 15th of November 1748, should be sustained, unless resting owing were referred to their oath.

The Earl of Findlater applied, and having proved his allegiance, was found entitled to the benefit of this act. See JURISDICTION.

*Fol. Dic. v. 3. p. 236. D. Falconer, v. 1. No 230. p. 318.*

No 75.

## S E C T. XI.

Act 20th Geo. II. Cap. 41.

1756. *July 28.* LEITH of Freefield *against* His MAJESTY'S ADVOCATE.

DURING the late rebellion, John Gordon of Glenbucket, accompanied by other rebels, invaded the house of the pursuer, a loyal person, and plundered it, carrying away with him goods and effects to the value of L. 180. This happened posterior to the 24th June 1745.

After the attainder of Glenbucket, the pursuer entered his claim in terms of the vesting act; and *pleaded*, That, had there been no forfeiture, his claim would have been unquestionably good against Glenbucket and his heirs; and therefore, as that act anxiously provides for the relief of all the lawful creditors of the forfeiting person, the pursuer's claim ought to be sustained.

No 76.

A loyal person, from whom a rebel carried away goods during the rebellion, found to have no claim for the value of these goods out of the rebel's effects belonging to the Crown.

No 76.

*Objected* for the Crown ; That, in order to prevent fraudulent claims, and cut off debts that might be contracted for the very purpose of supporting the rebellion, or saving the estates of rebels, the act aforesaid vests in his Majesty all the rights and estates of forfeiting persons from and after the 24th June 1745, allowing all their just and lawful debts, contracted by bonds and other securities therein enumerated, previous to that date. From hence it is evident, that no debt, however just, contracted after that time by the rebel, and by consequence no deed, however available to create a debt, can be sustained to affect the estate vested in the Crown.

' THE LORDS dismissed the claim.'

Act. Garden.

Alt. *Advocatus et Solicitor.*

Clerk, ———.

*Fol. Dic. v. 3. p. 237. Fac. Col. No 211. p. 308.*

No 77.

A lease of teinds forfeited by 20th Geo. II. c. 41. found to be annexed by 25th Geo. II. c. 41. and restored by 24th Geo. III. c. 57.

1793. May 15. SOLICITOR OF TITHES *against* KENNETH MACKENZIE.

THE Earl of Cromarty, in 1696, obtained from the Crown, as successor to the Bishop of Ross, a lease of the teinds of the parishes of Tarbat and Fearn, for thirty-eight years. This lease was, by various prorogations, extended to the year 1924.

The late Earl of Cromarty having been engaged in the rebellion 1745, was attainted, and his property of every description was forfeited to the Crown, by the 20th Geo. II. c. 41. commonly called the Vesting Act.

When afterwards, by 25th Geo. II. c. 41. commonly called the Annexing Act, commissioners were appointed for managing the forfeited estates, so far as annexed by this statute to the Crown, the factor on the estate of Cromarty accounted to them for this teind-duty.

But in 1758, the Barons of Exchequer, with the advice of the then Solicitor of Tithes, granted to Mr Munro, one of the heritors, a lease of the teinds of his own lands, and to Sir John Gordon, another heritor, and brother to the Countess of Cromarty, (probably for her behoof), a lease of the remaining teinds possessed by the Earl before his forfeiture.

These leases were granted for the usual period of nineteen years. Mr Munro paid the ordinary composition of three years value of the teinds. Sir John Gordon only paid three years value of the rent formerly exacted by the Earl of Cromarty, and both paid a nominal rent.

From that period, the factor on the estate of Cromarty no longer accounted to the commissioners for the teind duty.

The leases having expired, that of Mr Munro was renewed, on his paying the usual composition.

In a process brought by the Solicitor of Tithes against Mr Macleod of Cadboll, who had purchased part of the estate of Invergordon, in order to oblige him to accept a similar renewal, appearance was made for Mr Mackenzie of