assize of the shire where the lands lay, or others that best know the
Verity; which Verdict returned to the Chancery was of as great
strength and effect as the Writs and Evidence of the persons for-
feited or their predecessors, d. Act 2 Parl. 9 J. 6. Which Right in
favour of the Sovereign was not a Presumptive title only, is be-
the Church Mons's Decanalis & triennalis possessio that gave
way to a better when Justice was; but was Jure & de Jure, and
Excluded all Contrary proof of a better Right, M'Kenzie ob
=serv. on d. Act 2. Because the Impunitent who, having such Right
suffered the forfeited person to possess five Years without Pu-
=nishing him, and if such Compositions were allowed, the King's
right might be Elided, by Many Continuanceos. Natura Posse-
=ssion for five Years was thought required, because, that was more
Valuable than Civil possession, which did not suffice to found
this title in favour of the King, 14 June 1666 Hume contra
Hume. Where a person forfeited, or one to whom he is appa-
rent heir, was in possession the time of the forfeiture, the Ex-
piration of five Years before, the King or his Donatary is to be Entered to
it summarily, and cannot be Removed for the space of five
Years; that in the Mean time he may search for his Do-
ble Rights Act 2 Parl. 9 J. 6. Because the King or his Dona-
tary is not supposed to know quo jure the Rebel possessed
Which five Years are computed from the time of the
forfeiture, and not from the time the Donatary entered
to possession; that it might not be in his power to Exclude
the Creditors by Lying by. And the Donatary was found to
have Right to the Rents if Extant from the date of the for-
feiture, the prior to his possession 24 January 1667 Hume
contra Hume. Thus it was in Scotland before the Revolu-
tion: for Act 37 Parl. 2 J. 6 was abrogated and ordained
to be Expunged out of the Record of Parliament Act 20
Parl. 14 J. 6. And the Statute of Parliament 1644 was
Rescinded Act 15 Parl. 1 Sess. 1 Ch. 2. A

At the tendering of the Crown to King William
& Queen Mary, it was Represented as a Grievance among
others, that forfeitures in prejudice of Vassals, Creditors
or Heirs of Entail were allowed. Being 1/ Nocua capitis
Legatur, it is Just that every one suffer for his own
fault, without punishing the Innocent with or
for the guilty. 2/ No More should be Confiscated by

any person's Crime, than he has in his power to Dispose of: bona are
Understood debitis Deductis, and when Confiscated be Pari Jure
sua cum with the Burden of Debts. 3/ A Proprietor has no Left
right to his Heritage, than he hath to his personal estate: Upon
this Account a Law was Made in the Year 1690 (Act 33 Parl.
W. & M.) that no persons Forfeiture should prejudice Creditors
by Gift and Flotting with possession, or Debts contracted and
Registred, or on which Diligence was done before the time of
if open and Notour, or before Citation in the process of Ter-
feiture, where the Treason is Latent; and that Forfeited Estates
should be liable to all Real Actions and Claims (except Ex-
ten Duties and other Annual Prestations) Heritable
and Infeftment within the five Years before the Forfeiture
notwithstanding the Former Law (Act 2 Parl. 9 J. 6) which
is so far Rescinded, and to all Lawful Creditors personal
or Real for their Principal Sums only where the Debts are
Contracted before as afore said, and also to all Assignees
to the Superior before or after the Forfeiture, except the
yearly annual prestations aforesaid. Again that Creditors
should sustain no prejudice by the superior Forfeiture; Nor
husband or wife suffer by the other's Forfeiture, as to Jointure,
tocrea, or any obligation in their Contracts of Marriage. The
Reason why the Heritage of a Forfeiture Vassal is not affected
with Ten Duties or Annual rents preceeding the Forfeiture,
is because the Discharge thereof might have been a Collusive
Fraud, or kept up thro Collusion, to the prejudice of the Superior.
A Vassal Forfeited committing Treason Forfeits his Interest of
Vassal, and the Reversion remains entire to the Superior.
Stuart Answers to Sir Lat. doubts Gt. Vassal Heritable
or Moveable. That Creditors may not overcharge a For-
feited estate with Expences of Diligence, or possess the same
longer than is Needfull (being it cannot be other estates
to be brought to a Roup or Sale) his Majesty or his Dona-
tary may get parts of the estate set off and adjudged by
the Lords of Session to the Creditors in satisfaction of
their debts, that his Majesty may have the Superplus
Act 24 Sess. 6 Parl. K. W. Again, the Forfeiture of an Hei-
of tailzie where the tailzie is duly Registred, was Decla-
red not to prejudice the Substitutes therein, but only
the person Forfeited his Right and power the time of Com-
mitting