

The King may pardon any offence whatsoever so far as the publick is concerned in it after it is over, and consequently may prevent any popular action or a penal statute for pardon of the offence before any suit commenced by an Informer Hawkins i. b. d. § 33. But albeit the King may commit the Jury does to the publick, and the vindicta publica or Ex = pleary Punishment, he cannot discharge the Interest of private parties to claim Reparation of their Damages sustained by the Crime, Cap. Juris Juris. Frons part 4 Bon = lit. 11 cap. 12 which in our Law good under the Name of an Assaithment. As in England the Kings pardon doth foreclose or Bar an appeal, or any Right or legal Interest consist or Advantage whatsoever before Writ of the subject Hawkins i. b. d. § 34 & 35. Law Required to the Validity of a Remission is that the Injured party Consent to it and freely discharge all grudge and Revenges upon the account of such a Crime Act 1691 Parl. 13. § 6. This discharge is called by the Doctors Litore pacis and by us by the Name of Litore. Gratia facta a Principe Noenti non datur nisi pro delictis quibus habitas ab hereditibus offensis. Lib. 5. § 5 fine Quarta § 6 n. 40. Plac. Consol. 78 But Appellations with us are granted without previous Consent of the Injured, M. Lewis observ. on de act. 169. For the Opinion of Law, that a Remission granted before the Party is injured is valid, shall be Quia Statute Law de cap. 44 Act 174 Parl. 13. § 6 is not so to be understood as if an Assaithment subsequent to the Remission is not sufficient, but only that such a Remission is not effectual till an Assaithment be paid or satisfied to be given to the Injured, which he who pleads the Remission must find caution to do the Law Remission already past the 4th March 1717 Hugh M. Noel said it is agreeable to the Custom of other Nations. See Comment. de De personis passis & Restit. n. 9 Act. 1. de Cod. lib. 9. § 10 cap. 3. This in the case of Robbery Theft or Spoliation the Lord of Officion may Do assaithment and Damages in favour of the party Injured notwithstanding that the Crime is pardoned, M. Lewis observ. on Act 14 Parl. 14. § 2. observ. on de Act. 1691

A Pardon may be granted to a Criminal either before or after he is convicted, And the King may extend his Mercy on what terms he pleases; consequently he may annex to his pardon any Condition that he thinks fit, whether precedent or subsequent, or the performanc where of the Validity of the pardon will depend. Code 1. § 1. 274. b. 3. Inst. 238. Hawkins pl. Cr. lib. 2. cap. 37 § 45

When one prosecuted for a Crime produces a Remission with Letters of Pardon from the person Injured to stay his trial, the Remission is Recited in the Books of the Journal, and the Det. Debeted against him. If such a person hath not Letters of Pardon but only a Remission past under the great seal, he is set at Liberty upon finding Surety to appear and satisfy the party Injured as the Barons of Exchequer shall Modify 9 March 1714 Hugh M. Noel Within 45 days after he produces his Remission and if satisfaction be not given in that time the Remission is Null Act 14 Parl. 14. § 2. If the Remission be only under the Kings Hand and not past the seals, the Remission will be sustained to that prosecution against him upon finding Surety both to appear and the Remission And the Register and seals, and to pay an Assaithment to be taxed by the Barons 7th 8 June 1644 John Bell of Black Knise 18 January 1647 John Given & John Brown 7 September 1682 Thomas Ogilvie of Logie 4 November 1687 Alexander Stevenson 27 November 1676 Alexander Machan of G. B. and others. The Attorney for a Warrant to take the parties Injured to appear an Assaithment Modified and appaid. The Assaithment being paid by the Barons, and the sum Modified put in the hands of the Justice to be Made forth coming to the party Injured conform to the sentence of Modification, which is recorded in the Books of the Journal. The Lord of Justice will grant warrant to set the person pardoned at Liberty, Acts of Innocency are allowed without gratifying or satisfying those Injured by the person