

personal Indemnity. But yet where a Criminal process was raised concluding not only that the offenders should be punished in their person and goods, but also should pay a considerable sum in name of Damages and Expenses to the private person injured: His Lords sustain the foregoing Act of Indemnity as bound to bind the whole in so far as concerned the future of the King or the Vindictiva publica; but so in the whole they want to give a Release of Damages to the pursuer  
4 August 1709. Basset Bar and others 14 November 1717. *Walf.* Remissions granted for Quieting the Highways and Borders are Effectual without an Assentment  
174 Carl. 13 Cap. 6. *Dei* enim Rex Gratiano Moxon et sine pace privati Inter se laborant, quando Dominum laborat pro bono Republicae, et sic sit illud pro quo multorum salus capta est. l. 5. *Sultus de Romano*

Who being founded on a Remission of his Crimes he had not to produce, but offers to prove by the Oath and Declarations of the officers of the Court and Members of the Court of Exchequer, that it was judicially pronounced in Exchequer where it Remains, at least the Clerks there of are accountable to him for it; he Praves that a person might be allowed him for recovering the said Remission, and Examining the persons above mentioned upon oath in the terms aforesaid but it was answered that Nothing could verify the Kings Remission or the bond or Conditions thereof except a Superscribed Signature under his Hand; 22 September 1692. *M. King's Bench* *Bar* of Wigtown.

By the Law of England, where any persons are excluded out of a General pardon by the parliament the Court is not bound to give any person the Benefit of it unless it be pleaded and answered, that the whole plea it is none of the persons Excepted. *Hale* p. l. Cr. 202 *Hawkins* p. l. Cr. 11. c. 37 § 60 and with us the Benefit of a General Indemnity hath been allowed to be pleaded for persons absent by their Attornies 23 January 1711. *Willbert* *London* of *Siecht* *and* *his* *factor* 17 January 1711 *Robert* *Baird* *Younger* of *Sauchtoun* *and*

and his father albeit personal Apparand is Required in Criminal process by the Law of England the Court is so far bound to take Notice as Effect of a General pardon by Parliament which extend to all persons in General without Exception, that it cannot proceed against any person who pleads over as to any of the offenses pardoned, that he be so far from pleading it, or praying the Benefit of it, that he does not be can to Waive it. *John* *General* *pardon* *by* *Parliament* *cannot* *be* *waived* *Hamp* *p. l. Cr.* 173 a. 169 a. *Case* 9 *Just.* 234. *Hawkins* p. l. Cr. 11. c. 2. cap. 37 § 58. 61 because no one by his admittance can give a Court a power to proceed against him when it appears there is no Law to punish him. but a Man may Waive the Benefit of a Pardon under the great seal as where one who hath such a pardon doth not plead it, but pleas the General Pleas, after which to plead not, pleas the Pardon Stamp; *the* *Hol* *Resp.* 24. 25 *Hawkins* *ibid.* § 67. 67. Where a General Act of Pardon excepts certain kinds of Crimes, there is no need to aver that the crime where of a person is indicted is not one of such Excepted Crimes; but the Court might judicially take Notice whether it be Excepted or Not *Hawkins* *ibid.* § 69. And where a General Statute of Pardon excepts only one particular person, it hath been said, that there is no need of an Avowment that a person indicted is not such a person; but the Court is to take Notice whether he be or Not *Hawkins* *ibid.* § 63. but in England he who pleads a particular pardon under the Great Seal ought to produce it at the Bar *see* *pro* *Agill*, *the* *it* *be* *a* *plea* *in* *Bar*, *Hale* *p. l. Cr.* 252 *Hawkins* *ibid.* § 65. Because it is presumed to be in his Custody, and the property of it belongs to him. The Pardon prays the Court upon his Oath that it may be allowed. When a pardon is pleaded and allowed, the party gives Oath to the Judge as a good due to them for it, *the* *to* *paid* *88* *a.* *Hol.* *Resp.* 25 *Hawkins* *ibid.* § 71.

Notwithstanding all felonies are several, and consequently a pardon of one Man cannot be a Discharge of another, yet in some cases the felony of One Man may be so far dependant upon that of *the* *Man* *the*