

I N D E M N I T Y.

1663. *January 15.* GREENLAW *against* ———.

GREENLAW being pursued by ———, for spuilzie of two mares, in May 1654, *alleged* absolvitor, because he was then in arms for the King, and took these mares for the service, and had warrant from his officers, which he offered him to prove by his pass, and capitulation produced, expressly including him, with his officers, who capitulated.—The pursuer *answered*, The mares were great with foal, and altogether unfit for the service; and if they were specially commanded to be taken, it might be instructed by writ.

THE LORDS, considering this capitulation, being about that same time, found, That albeit there had been no order, yet the defender being then in arms, acting *modo militari*, the act of indemnity freed him, and would not give occasion to such process, and therefore assoilzied.

Fol. Dic. v. 1. p. 461. Stair, v. 1. p. 156.

1675. *December 7.* GRANT *against* CRAIGIE.

CRAIGIE of Dumbarne being decerned to pay L. 40 to the procurator-fiscal of Perth, as having committed a riot upon Sibella Grant, in laying hold upon her publicly on a Sabbath day, upon pretence that she had lace under her hoods, contrary to the sumptuary act; he suspends on this reason, that this being a penalty, was taken away by the King's act of pardon of penal statutes, it not being capital.—It was *answered*, That the act related only to penal statutes, and could not be extended to riots.—It was *replied*, That it bore expressly, 'all transgressions, not only against penal statutes, but other laws inferring arbi-

No 1.

An act of indemnity was found to liberate one from a spuilzie, who had taken some horses for his Majesty's service.

No 2.

A woman was rudely attacked, on pretence of having about her prohibited lace. The fine which had been awarded was found not exigible, in consequence of