

He brought an action of spuilzie and damages against Lieutenant Maclauchlan; and *insisted*, That he had continued loyal during the rebellion, and was living peaceably at home when the spuilzie was committed; that therefore, though the acts of indemnity might extend to justify the apprehending suspected persons, pressing horses, carriages, &c. for the King's service, entering houses, quartering soldiers, and such like, during the rebellion, yet they could never justify the robbing an innocent person of all his effects.

Answered for the defender, That it was the duty of the officers of the army to apprehend the persons, and seize the goods of all concerned in the rebellion; and in the discharge of that duty, it was impossible in every instance, to avoid committing of mistakes; that it was chiefly to secure them from the consequences of such mistakes that the acts of indemnity were made. This is evident from the generality of the words of these acts. It is not necessary to prove the pursuer's accession to the rebellion. It is sufficient that he was suspected thereof, and that the officers were so informed; and that the goods were seized, 'with an intention to suppress the rebellion, for the preservation of the public peace, or for the service and safety of the government;' and were not converted to the private use of the seizers, but were disposed of on account of the public; that as the pursuer can have no action for wrongous imprisonment, so neither can he have any for the seizure of his goods.

'THE LORDS found the defender entitled to the benefit of the acts of indemnity; and therefore sustained the defence, and assoilzied.'

Reporter, *Lord Milton.* Act. *Ja. Ferguson, Lockhart, and Burnet.*
Alt. *Ro. Craigie, Ja Dundas, & Bruce.* Clerk. *Kilpatrick.*

B. Fol. *Dic. v. 3. p. 233.* Fac. *Coll. No 8. p. 12.*

1758. December 1.

YOUNGER CHILDREN of CAMERON of Lochiel *against* His Majesty's ADVOCATE.

SEVERAL years prior to the 24th of June 1745, Cameron of Lochiel granted moderate bonds of provision to his younger Children. The bonds contained a power of revocation, and dispensed with the not delivery.

Lochiel having been attainted for the rebellion of 1745, and his estate forfeited, his children claimed upon these bonds of provision.

Objected for his Majesty's Advocate, *imo*, They contain a power of revocation. *2do*, There is no proof offered of the bonds having been delivered evidents prior to the 24th of June 1745.

'THE LORDS dismissed the claims.'

Act. *Montgomery.* Alt. *Crown Lawyers.*

J. D. Fol. *Dic. v. 3. p. 233.* Fac. *Coll. No 138. p. 253.*

No 57.
these goods for the use of the army, is, by the acts of indemnity 19th George II. freed from all action at the instance of the proprietor, although dismissed from prison without being brought to a trial.

No 58.
In claims upon forfeited estates for bonds of provision, delivery prior to the statutable date of attaintainder must be proved.