

when it is uttered in such a way as clearly argues the
 the speaker is half way out of his wits; or when he im-
 mediately recovers himself, and jugs all the offences to
 a pious fit of Contention. These Distinguish betwixt
 phony Uttered in passion, by one Unlawfully Employed, as
 Drinking Cards, playing at Cards &c. at the time, and one
 who Blasphemes passionately in the Dring of his Law-
 ful Business; as if the latter words be quite than the
 former. But I cannot see why Passion should excuse the
 former. More than Murder; unless it be that a Blasphemy
 may sufficiently atone for his Crime by Repentance, while
 as the Injury done by taking away a persons Life cannot
 be so repaired.

According to the Opinion of Julius Clarus (lib. 5
 de Blasphemia n. 3 infra) those who Blaspheme
 thro Austriety ought not to suffer the outmost Rigour
 of the ordinary punishments. But others (Carpzov. Crim.
 part 1 Quast. 45 n. 448 Begg. Barbich part 4 Concl. 1 n. 1)
 do not sustain Austriety for any Excuse to a Blasphemy
 In George Mazonius (Crim. part 1 tit. 3. 5. 3) it is at pains
 to reconcile these opinions by alleging, that Factors of
 Austriety are Equally punishable for Direct and Gross
 phony; but not for Consequential and Indirect
 phony, as if a Rustick or some Remote Highlander should
 Err about the persons of the Trinity, or the Deity of
 rather than punishment, unless he shew obstinacy to
 his Blasphemy. But with us, the Ignorance, Rusticity
 passion, Raillery may in some Circumstances excuse
 the ordinary punishment of Blasphemy; yet
 they are never sustained as Defences against the
 only with mad Folks, and Exceptio firmat Regulam
 in casibus non Exceptis.

Chap. 3.

Of Heresy.

Heresy (from the Greek *hairesis*) a peculiar opinion
 is a Christians perniciuous owning of Errors

fallacious Contrary to the true Doctrine of the Christian
 faith clearly revealed in Scripture; which when it is
 known of the Almighty God, and may prove destructive
 to the publick peace and Welfare of Gods People, and the
 humilitans who are Enemies to our Faith, shall be
 not profess the Name of Christ, are not to be
 dealt with as Hereticks. Nor as those who are ignorant
 by without the hearing of the Law, their perverberations
 locked or treated as hereticks. Heresy is not
 Error in point of faith is not Heresy, unless attended with
 obstinacy in the defence of the same, or the obstinacy that
 constitutes the Character of Heresy, not the Error. The true
 Protestant Religion in a civil Country and Popery
 in a Protestant Nation are locked Heresies.
 Hereticks in Scotland while Popery prevailed here were
 tried by the then Church in the first instance, and being
 found guilty upon Conviction before the ordinary, were
 turned over to the secular arm, that is, the secular Judge
 Act 24. Parl. 2. f. 1. to be burnt which custom of burning
 Hereticks is said to be founded on these words of Holy
 and cast them into the fire, and they are burnt for
 but such as were guilty might wear after sentence of
 them selves by Repentance from the punishment of
 Death for the first fault. There is no Express punish-
 ment in our Law against any other Hereticks than Pa-
 pists concerning which there is no occasion to speak
 afterward. Now when God by his Church Government
 is established by Law in Scotland Heresy may be tried
 by the General Assembly in order to Confess and Ecclesi-
 astical punishment