

injury or Murther of which do not hurt his
 but only his honour, kills the offender, he will be liable
 to the ordinary pain of death. *Grupp. Farin. De homiciis*
qu. 125. n. 42. Barlich part 4. Concl. 12. n. 41. Carpzov.
Crime part 1. qu. 30. n. 14. 69. Hawk. 1st ed. Cr. lib. 1. c.
31. 333. Not only because of the Disproportion betwixt
 words or Gestures and wounds, But also because such
 Injuries may be Repaired by a process of Reconciliation.
 However some Doctors thinking that the Nature
 of the Injury and quality of the person Injured are
 to be carefully Weighed in the Balance of the Jus-
 tice Discretion, Distinguish betwixt a person of
 and intire Goodty, whom they will have Subject on-
 ly to an Arbitrary punishment, for hitting in the head
 of a person one who grievously and Unjustly Reproaches
 him, honest men Valuing their honour no less than
 their life; and one of the Vulgar, whom they do not allow
 to Escape the pain of death, if when provoked by some
 Verbal Injury he kills the Injurer. *Grupp. Farin. De*
Crupzov. lib. 1. n. 72 & 76. Sir George Mackenzie (*Crime*
part 1. tit. 11 § 3) thinks, that where one kills another
 for aspersing his honour by Injurious words, the pe-
 nalty is far more eminent than the latter, is
 to be punished as a Murderer. Because that was
 vengeance and not self defence: seeing albeit the ordina-
 ry death some times works a Mitigation of the ordinary
 punishment, yet hath never such effect in killing or
 other Incomparable Injuries. *Go the fr. Drac. Crim. 1. 1. 1.*
Qu. 25. But he is of Opinion, that albeit this holds
 in Verbal Injuries offered to one's Honour, ubi Honor
 Vox Misa Revertitur: Yet that an Eminent person for
 killing a man who offers such a Real Injury to
 his Honour as might be Stopped, V. G. who commands
 him to look down his Britches to be Whipt, or
 an ignominious Scourge betwixt the Aggressor, should

not be capitally punished. It was found Relevant to
 asportis a smith from Capital punishment (without
 prejudice to inflict an arbitrary punishment) for
 stabbing a Gentleman of quality with a sword, that
 the Gentleman killed his first Attack and beat the
 Fannol with such a great Baton as might have brained
 or killed him, and he the Fannol could not fly or save
 himself otherwise than by drawing his sword after he
 was assaulted. Albeit it was pleaded for the prisoner,
 that such an ignoble fellow of a Mean Trade ought to
 have born patiently such a Disrespect of his insolent
 Behaviour by a person so far above his Rank. In Respect
 it was answered, that self Defence is Compensatory by the
 Law of Nature to all men whether Noble or igno-
 rant. 26 Feb. 1690 John McMillan. 57 The Defence is not pro-
 portioned to the offence in many other cases. Thus one
 having killed another by a Stroke over the head with a
 Rake having iron too, it was not sufficient to free
 him from the pain of death; that the person slain had
 first assaulted him by pulling away the hair of his
 beard 21 December 1691 Robert Saward. Nor was self
 defence a sufficient excuse from the pain of death
 for killing a Roman, that he was provoked by his throw-
 ing a full Chamber pot upon his face, for self making
 his water at the well near his ale cellar. In Respect
 the provocation was so slender, that one having the
 least degree of Morality, let be Christian, pagane or
 heathen have neglected it. The law says Made to
 Restrain mens passions, and fears any homicide
 doth happen without some provocation: for who but
 a devil incarnate would kill for killing his Rival
 1693 William Ains.

The Limits of self defence are Violated in the
 Manner or Measure of it, when a man put in dan-
 ger of his life kills the Aggressor tho he might have