Police Judgment. Because Children under 16 and past puberty are to be punished arbitrarily for beating or striking their Father or Mother Act. 20 Parl. 1 Sess. 1 Ch. 2. Sir George Mackenzie Comm. part 1 Tit. 1 § 8 Concludes, that those under the Age of Pupillarity are not capable to commit or punishable for Crimes: because they would be punished for Crimes against the Law of God, if punishable for any. A Boy under twelve years of Age was found not dolo capax and not admitted to the Knowledge of an Assize for Sheep stealing in respect of his non Age and that what he did was in obedience to his father's Command 21 January 1662 John Rae Younger. Person aged 8 Listing at the Breaking of a house and stealing goods out of it were adjudged to undergo only an Arbitrary Punishment in regard by their Confessions and Ocular Inspection they appeared to be under Age 28 10 March 1701 Thomas Duff & William Millar. A Minor is not at all punishable for merely Statutory Crimes, as Usury, forestalling &c. except where Malitia Supplet Aetatem, which because not presumable is only to be inferred from very pregnant and convincing Evidence Prosp. Farin. ibid. n. 143 & Segg. Gomez 3 Var. Resol. Cap. 13 de Delictis n. 61 M. Kenzie Crim. part 3 Tit. 1 § 5. Nor are Minors liable for Crimes of Omission Cf. Revers Delict. l. 6. Cap. de his qui ob. l. ult. Judic. Gomez ibid. n. 59. Prosp. Farin ibid. n. 69. & Segg. A Minor is not obliged to Answer while he is Minor for any Crime inferring the Loss of Life or Limb, Reg. Majest. lib. 3 Cap. 32 § 15 & Stundenbergius & Stundt in Corp. 41 lib. 2 l. pen. C. de Auctor. Jud. l. 2 x. de Dilectis minor. Because he may readily commit some Deed prejudicial to him. And if a Minor is not bound to Dispute a Cause intented to him; far less should he be put to Depone in a Criminal pursuit, ubi Falsae Juvenili potest. It would seem that the Minors are liable to punishment for several Crimes committed by them in their Minority; they are not obliged to Answer for any, till they attain to Majority M. Kenzie Crim. part 1 Tit. 1 § 5 Thefin. The Minor who is the principal Committer of a Crime owed punishable, he could not be punished as art and part of another's Crime; seeing that necessary guilt depended upon the Judgment and Contrivance of the

Minors are apt to Err because of their Frailty and Nonage M. Lowrie ibid. § 5. Thus one Under twelve Years of Age was not put to the Knowledge of an Assize, for being in obedience to his father art and part of stealing four Sheep by his father 21 January 1662 John Rae.

Furiosis persons are in the Construction of Law incapable to Commit Crimes Nat. 2 Bob. 1 Cap. 23 § 4. Carpzov. part 3 Quaest. 145 n. 1. 9. & Segg. For they are Compared to or put in the same Category with Infants l. 3 § 1 ff de Injur. Absents and such as are Asleep l. 2 § 3 ff de pure Edict. or dead l. 14 ff Locati. l. 24 § 1 ff Ratam dam Habere, and Confessed as no more guilty of any Crime they Commit, than if it were done by a beast, or the falling of a tile from a house l. 5 § 2 ad L. Aquil. Yea so much did the Law Commisserate their Condition as to Expostulate with such as would Prosecute those whom their hard fate Excuseth l. 12 ff ad L. Cornel. de Sicar. and very sufficiently punisheth l. 14 ff de officio Praesid. And Caballus Resol. Crim. Cont. Cas. 297. n. 27) Asserts, that he who Commits a Crime during his Madness, is not abhoxious to the ordinary punishment, tho he himself occasioned the Madness: since Law Reckons not, that any man would Madde him self furious out of Design. But then this absolute Immunity from punishment, should be indulged only to such as are altogether furious and have no use of their Reason Reg. d. l. 14 ff de offic. Praesid. Tho at the same time by the Rule of Proportion, the Condition of those who are not Stark Mad, but have their Reason Clouded by Fury preconceived and Melancholy (which Lawyers call Infamia) justly pleads in their Behalf for an Alleviation of punishment Carpzov. Crim. part 3 Quaest. 145 n. 13 & Segg. And albeit such as Discover some Degree of Judgment by any Acts of Assistment or Revenge in the wrong they do, may be punished with some Degree of Severity; Yet the Parliament of Paris is justly Condemned by all Lawyers, for causing Execute a Mad man for killing one who had struck him two days before: because a Lesser Degree of Punishment might have satisfyed for that act of seeming Revenge, which Argued only that the furious had some kind of Memory. Whether a person being in a Delirium for of Spirit the time of his Committing a Capital Crime,