

Crime, is thus limited to suffer only an arbitrary punishment.
 8 June, 1692 Agnes Corp. 27 Novemb. 1709 James Henderson v. l.
 When a Man formerly of a sound Judgment is said to have
 become furious at the time when a Crime was committed
 him, he is presumed to have been found in his Mind at
 the time of the fact, till the contrary is made appear, Com.
 3 War. Reg. l. Cap. 1 n. 71. Hul. Matth. do Grim. Prolegom.
 Cap. 2 n. 6. Because every one is held to be such as
 he ought to be, and fury supplies a Defect of Nature, & it
 = more, quos furor stimulis suis Variat Quibus Reser-
 and Decreasing at the Moon upon which it depends, &
 thought Capable of committing Crimes in their sound
 Interval Cap. 200. ibid. n. 33. But according to the Common
 Opinion they are presumed to be in fury when they Com-
 mit Crimes, Prosp. G. de Paris Temp. Quast. 94 n. 5. Hul.
 Matth. ibid. Cap. 200. ibid. n. 34 & 35. For tho every one is
 presumed to be of sound Judgment till the contrary is
 proved, cum Qualitas quae in se habet, magis praesumitur,
 Aliat. Presumpt. 7. Yet Madness being a Sudden &
 tempor. that is seldom or never cured, law supposes a
 Mad person to be still in that Condition till a cured In-
 = terval be proved, which starts especially takes place
 Crimes, which argue Madness, rather than an Inter-
 mission of the Disease. But two Limitations may be
 slapt upon this Rule. 1. Persons that are fixed with
 Madness only at certain fixed seasons, as Lunatics
 who rave at the height of the Moon committed Crimes
 at other times are presumed to be then in their sound
 Interval. Mackenzie Grim. part 1. Tit. 57. 1707. Where a
 sign of Wit or Contrivance appears in the Com-
 mission of a Crime, where the Committer had before his Madness
 or in his sound Interval conceived a Design and pursued
 Against the person injured. the Crime should be thought
 committed during the said Interval. Prosp. G. de Paris
 Quast. 94 n. 11. Jo. Voet. Comm. in Jul. ff de penis n. 6. Mack-
 zie this. But the Judge should moderate the punishment
 of a Crime founded upon such sound Intervals. Nay
 farther, something of the ordinary Punishment may
 be abated even for a Crime clearly proved to have
 been committed in such an Interval. Mackenzie

I have been by various Names as St. James's Way opposite to Kings Chappell in the East-End of London.

Because Madness having once Disorders the Judgment, & is
 much more when it often Recurs, cannot fail to leave some
 Degree of Weakness and Incapacity in a said Interval, which is
 only *frustrata quies et intermissio*, and not *de Sipsis omnia*
Integra and according to our proverb, once was by *Waste* Tho.
 A furious person cannot be punished for Crimes committed
 by him; Yet he who Incites a Mad Man to do a Crime
 is a principal Offender, and as much punishable as if he
 had done it himself Hale pl. Cr. 93 Hawkins pl. Cr. libi.
 Cap. 1. Sect. 27. Therefore the best of Peace in England are
 allowed to cause a dangerous Madman to be put in Prison,
 and if they find necessary to cause them to be recovered
 his Bond 12 A. Sept. 2 Cap. 23 § 22. And by our Law the
 friends of a Mad man ought to put him under Restraint,
 and if necessary to Plag, fetters and shackles on him, and
 are punishable for Crimes committed by him tho their
 Negligence is l. 14 § offic. Praesid. Barr. 200. Grim. part 3
 Quast. 143 n. 41. 42. Stat. 2 Rob. 1 Cap. 23. Tiraguell. de pen-
 = nis temp. Caud. 2 n. 10. Hul. Matth. do Grim. Prolegom. Cap.
 2 n. 100. But albeit they may be civilly liable for any damage
 done by the Mad Man committed to their Care, as a Master
 is liable for any injury done by a Wild beast in his
 Custody; Yet it were hard to subject them to Corporal
 punishment for Crimes committed by such Madmen,
 except where the Judge had order to keep them Exally;
 which ought not to be Extended Against such as are
 only Curators or Resters of him to the Committer of
 the Crime Bartol. ad l. 14 § offic. Praesid. Some are
 of Opinion that a Madman committing to himself
 Again and Recovering his senses, may be punished for
 Crimes committed by him in his Distemper.

But the Generality of Lawyers agree, that
 one Recovering the use of his senses cannot be punished
 for a Crime committed in his fury. Prosp. G. de Paris
 de penis Temp. Quast. 94 n. 4. In Respect the Line
 of committing a Crime is to be considered in the puni-
 = shing thereof l. 1 pr. ff de penis of which sentiment
 an alle. Tiraguellus de penis Temp. n. 889. Monch
 de Arbitr. lib. Quast. lib. 2. Sect. 325 n. 6. Joh. Voet. Comm.