1 March 1710 Peter McLean. 3 March 1710 John Govan. 2 November 1685 Urquhart & Webster. 1 April 1691 Captain James Bruce & Lieutenant David Arral. In which cases it is not properly homicide but the Excess in Defence that is punished: and it is hard for a person whose life is Attacked to Measure and poise a sword in a Ballance every step he makes in his own Defence. Yea, when a soldier was Judicially for knocking a man dead with the Butt end of his Musket, it was found Relevant to Restrict the Libel to an Arbitrary punishment, that the stroke was Given in Defence of any of the Pannels fellow soldiers when Attacked 6 March 1711 William Hunt.

The Limits of Necessary Self Defence are to be considered when no ground or sufficient ground of Offence was first given: As if the provoker being at Length put in Danger of his life, yet the person provoked did Kill, it could not excuse the fact under Colour of Self Defence to free him from the ordinary punishment 20 November 1696 George Cunning And Gail de pace publica lib. 1 cap. n. 17 Prosp. Farinac de Homicidio qu. 125 n. 118. Bertich part 4 Consil. 13 n. 5 Carpzov. Crim. part 1 qu. 29 n. 42 cause the principal cause of it, a quo Malitia Incipit & ipse est fabor sua fortunæ. 2° When a person was given but not by the person killed, that is, when Titius Injuria by Mævius doth Voluntarily Kill Sejus, knowing that he was not the Injurier, the practicat of so Self Defence will not serve as an Excuse to him from the ordinary punishment Carpzov. ibid. n. 50. But if one put to the Necessary Defence should in a Conflict with the Aggressor casually without any Design kill a Bystander or Interposing to rid them, he would be liable only to an Arbitrary punishment, if punishable at all Bertich lib. 5 § Homicidium n. 31. Bertich part 4 consil. 10 n. 11 Carpzov. ibid. n. 54. Thus it was Judged Relevant to Restrict a Libel for Slaughter to an arbitrary punishment that while the pannel Attacked another

with a drawn sword stood in his own Defence with a drawn Bayonet, the person killed in interposing to separate them did casually Receive a Mortal wound, and Justified what the pannel Intended for his own Necessary Defence against his adversary 1 December 1712 John Graham. 3° It's a Capital Excess of Defence to kill one who threatens or out of simple heat pucion that he was about to do the other an ill turn. Verba enim Verbis, non Verberibus funt Repellenda, the Analogy of Defence ibid. n. 56 & 60, Damhoud. Crim. cap. 76 n. 19. Carpzov. ibid. n. 9. Farinacius. But this is to be understood of things done against one who Denounced killing threatens and huoa a person who ufitt to Execute his threats them by a sword or Pistol, or who Making Ready to Execute them by putting his hand to or drawing his sword for drawing the person threatened may lawfully provide for his own Safety by Attacking his adversary without Expecting the first Stroke from him, l. 3 § 5 ff. de Vi & Vi Armata pr. Jus Leg. Aquil. l. 3 § 2 ff. de Lege Corn. de sicariis l. 1 § 1 ff. de injur. Damhoud. Crim. qu. 76 n. 19. Prosp. Farinacius de homicidio qu. 125 n. 68 & seqq. Bertich part 4 consil. 13 n. 7. Gail de pace publica lib. 1 cap. 16 n. 21 Carpzov. ibid. n. 58. Malitia enim est in tempore Cuiusque, quam post Exitum Vindicare l. 1 § quando licet Unicuique sine Jure. Et Consul lind est Intactum Corpus Forensem, quam post Vulnus Accepturum Romedium quærere l. 1 § 1 ff. in fin. § in quib. caus. Restit. in Int. Neces. Ita Gherat nings per se were not sufficient as a sufficient out qualification of the Self Defence. But it was found Relevant that the person killed or his Accompliceds were the first Aggressors without any Just provocation given to him and that he wounded the Pannels brother or servant and thereafter pursued the Pannel with a drawn sword or Bended Pistol, 12 November 1668 Captain William Barclay. 4° When one for a slight offence as a Jest or Banter or other Verbal Injury