

was accused of Murder denying the libel simply, & transferred upon the juror the Burden of proving that the other killed, out of fear thought M^r a lie Carrasco. 8^{mo} 1^o qu. 33 n. 38 fagg. But by our law the juror only binds prove the slaying later, Proposed ma lio being presumed M^r Lewis Crim. part 1; Gil. 12 56 Part 2. Git. 22 52 infine M^r the pannel acknowledged that he killed such a man, but says that it was in self Defense, he must prove his allegation Trosp. Garin. de homicidio qu. 125 n. 49 86 fagg. In hand. Crim. cap. 76 n. 6. et al. ad. de probat. Concl. 863 34 Carrasco Crim. part 1 qu. 33 n. 16 fagg. Because the presumption of Innocence lies in favour of the Accused, for whose one Confesseth a fact, but denyeth a quality naturally or presumptively inherent, the Burden of proving that quality lies upon the Denier, and so it is that there lies upon one that chides a presumption that he killed a Corp. If it was not presumed, that one killed in self defense, or that the person killed was the aggressor, but Exception of self Defense is raised positively to be proved, Albeit it was pleaded, that if one attacked another, in the Night time or on the high way by a Robbery, or hit him in his own Defense, it was heard to burden the killer with a full proof that he was so assaulted. In respect it was understood, that when one accused of a Crime Excuses himself upon the Manner of Commission, the fact, has presumed against the Actor, unless he prove the quality, 98 10 November 1674 Andrew Rutherford, sufficient not to plead self Defense in General by way Exception, and to asser the qualifications and Circumstances to the Jury: Albeit the qualifications of a fact and part detailed in General is referred to their Verdict. Because the Juror cannot know so well till after the proof what deed from the Pannel had the Crime charged upon him; and so may draw out Information from other the Circumstances

his own Defense. But the qualifications of self Defense must be pleaded by the pannel against the Relevancy of the libel that: any way or no way because negating the killing, if he killed it was in his own Defense in so far as the Pannel was first Attached by the Accused with a drawn sword or Poached P. 160 186. And the Juror will draw the Import of the qualifications of self Defense, if relevant or not. M^r Lewis Crim. part 1 Gil. 11 54. Thus the Exception of self Defense in General is not sustained against a Judgment of homicide, if the Accused out qualifying that the pannel was first Attached 16 June 1701 Ensigne Ferris 12 November 1668 Chap. 16. The Exception of self Defense would seem to acknowledge the libel where of it is a Crime, being actions cannot be in self Defense. But yet the the pannel prove not his Exception of self Defense, he will not be condemned unless the juror prove his libel M^r Lewis Crim. 6.

The Doctrin favourable is a pannel Defense in the opinion of the Doctors, that sometimes the Rigour of strict Law is procast it Remitted and Dispensed with upon several Cases, as if they allow the pannel to prove self Defense even after he is convicted of the fact which at first he denied 118 59 Broe quest. Gil. Clar. lib. 5 hemeticum n. 55. Dorsch part 4. Concl. 14 n. 37. Carrasco Crim. part 1 qu. 33 n. 118 142. They will have witnesses otherwise In Rebut, as some that servants, blood Relations, and witnesses swearing as to their Credibility, to be received for proving the Exception of self Defense. And the generally more faith is given to two affirming, than to one denying witnesses: yet in the Matter of self Defense, two denying witnesses are more credited by them than 1000 affirming Trosp. Garin. de homicidio qu. 125 n. 423. M^r Beard. de probat. Concl. 905 n. 18 fagg. So. Voell Comm. 2. 3. The Testimony of one witness swearing that the Pannel is Innocent is thought by them sufficient to Except him from