L. ad L. Jul. de Adult. Here the laws of other Nations, That Sodomites, if possible, deserve to die more than once. Tho' this kind of death hath not always and every where been Inflicted, yet Generally such atrocious Criminals are Condemned to be burnt, because the Inhabitants of Sodom and Gomorah were for this Crime Destroyed by fire and Brimstone rained from Heaven Gen: 19:24. Which punishment is inflicted both on the Agent and patient, whether man or woman or beast: the beasts are in such a case cut off, rather for abolishing the Memory of so horrid a Wickedness, than as offenders within the law. But where a Boy or Girl sodomitically abused is within the age of Discretion, the agent or abuser only is put to death Coke 3 Inst. 59. By the law of England Sodomy or Buggery is felony without the Benefit of Clergy 25 H.8 Cap. 6. Iunct. 5 Eliz. cap. 17. Some Ancient law Books make this Crime treason i: treason against the King of Heaven or a Rebellion against the order of Nature which he hath Established.

We have no Express Statute in Scotland for punishing Sodomy, but it hath always here been punished one or other with death of one kind or other: And it is commonly except to die by a General Pardon. A Man for working with his Body of a stoned horse useth to do, was ordained to be hanged and the Mare to be put to death 28 December 1691 Thomas Wishart. Another for Copulation with a Mare was Condemned to the like punishment very early in the Morning and the Mare to be drowned in a Moss or Loch 15 February 1649 James Wilson. Another man was for committing bestiality with a Cow, adjudged to be hanged betwixt three and five in the Morning 1 July 1717 Robert Howie. A man was ordained to be drowned betwixt four and five in the Morning for bestiality with mares cows and a sheep 3 March 1675 James Mitchell. A Man was adjudged to be strangled at a stake and burnt for Carnal Copulation with a Cow 31 May 1650 James Fiddes. Another had the like Judgement for bestiality Committed by him with a Mare 9 Aprile 1679 Major Weir. And another for the like Crime Committed with four Mares and two Cows

17 Aprile 1662 Andrew Lowe. And another was Condemned to be strangled at a stake and burnt betwixt four and five in the Morning for Carnal Copulation with a Bitch, and the beast to be put to death, 10 July 1699 John White. An Hermaphrodite qualified with the use of both sexes who passed for and bore the Name of a woman, having as a male had Carnal Copulation with a Mare, was ordained to be strangled at a stake and the Mare to be killed, and both to be burnt, and the Value of the Mare to be given to the owner thereof 2 February 1653 Margrat Rany.

Some lawyers hold an Attempt to Commit Buggery to be as highly punishable as the Crime it self, if the offender did all that lay in his power to Execute his lustful Design, and was only Letted by some Intervening accident And Gail de pace publica lib. 1 cap. 14 n. 26. Papon. lib. 22 Tit. 7 Art. 1. Damhoud. cap. 98 n. 16. Menochius de præsumpt. 1 Tit. 14 § 4. Because he Deserves not to live who could harbour the thoughts of so atrocious a Wickedness. But other Lawyers think a lustful endeavour to Commit such a Crime punishable Arbitrarly and less severely, than when it is accomplished c. 152 ff de Extraord. Crim. Jul. Clar. § Sodomia n. 8. Menoch. de Arbitr. Jud. Quæst. lib. 2 cas. 286 n. 28. Carpzov. Crim. part 2 qu. 76 & seqq. And tho' Sir George McKenzie (ibid.) Crim. part 2 Insinuates this to be the opinion only of Lawyers in hotter Countries where the Custom and Climate Lessens the Crime of Sodomy: Yet in our Northern Clime an Attempt by a man to have Carnal Copulation with a Mare was found Relevant to infer only an Arbitrary punishment 21 December 1719 George Robertson. By the law of England some kind of Penetration and also of Emission must be proved to infer the pain of Sodomy or Buggery Coke 3 Inst. 59. But my Lord Audley b. Castlehaven was found guilty of Buggery by his Peers, for ——