Ground lost by (think) abrogated by our Saviours dismiss
the adulteress brought before him by the Pharisees Joh
Because he came not to be a Judge, and tho he had been a
She wanted an Accuser. Some Pagans punish'd this Crime
by Castration Valer. Maxim. lib. 6 cap. 1 n. 3 as a Woun
of Lust in the most sensible part, and the most effectua
Remedy that is not Capital to prevent Committing
like fault again. Jo Chuck Horace (after his)
to allude; Acudit ut cudam tortos cauda amoy salacem

De Moloret Forrum.

By the law of the Romans while they were a free
the punishment of adultery was various, the Mo
Capital. Under the Emperours, Criminals of this Nature
were first put to death. But whether By the Julian
law of Augustus 84 Instit. de pub. Judic. As some think
or by later Constitutions l. 18 C. de transact. l. 30 81 C
Jul. de adult. In the opinion of others, I shall no
here Determine; only Juvenals Exclamation upon the
-ues of such punishment in his time Satyr. 2. 37.

Ubi Fu

Lex Julia domus, seems to favour the former Sentim
the Emperour Justinian Ratified the Penal Sanctio
as to Men, and Mitigated the same as to Women, who
upon the Account of the frailty of their Sex, By the
-shioned of Glendora his Imperious Wife, be Condemn
only to be whip'd and shut up in Nunnories Nov. 134 ca
10. All the Adultery is Gonorea By Mord Abbordeen in Wom

Than in Men.

However all acts of Adultery are no where equal
punished.

By the law of Scotland Notour adulterers both
men and the Woman are punishable with death (A
Parl. 9 Q. M. junct. Act 105 Parl. 7 J. 6. Act 11 Sess. 9 Parl.
K. W. Abbot the first Law against Notour adulter
makes them punishable by death for proceeding in
their wicked ways after admonition given them to ab
them from that Crime d. Act 74 Parl. 9 Q. M. Gorai
terior Law Explanatory of the former declares ad
tory to be Notour and worthy of death, either w

a Child or Children and born; or where it is Manifestly
known that the parties keep Company and Lie together,
and Acquires Pronunciation to obtain a Sentence only
only to Infer Notour Adultery against persons only Sus
pected to be guilty of that Crime, who for their Contu
macious Disobedience after admonition and Excommu
nicated Act 105 Parl. 7 J. 6. Thus a Married woman for
adultery Committed by her with a Minister to whom
the bore a Child was ordained to be Scourged and Ba
1646 Margrat Thomson and it was Sustained to Infer
the pain of death that the parties were Notour and Ma
nifest Adulterers by Conversing and Bedding together
whole Nights with as little Ceremony as Man and
wife: tho they did not Dwell together openly and avowed
ly and were not Excommunicated 25 January 1694 Daniel
Nicolson and Marion Maxwel.

Ordinary or simple adultery is punished arbitrarily
25 January 1694 Daniel Nicolson and Marion Maxwel
by Banishment Whipping Fining Imprisonment &c. Thus
a Woman was Banished for adultery Never to Return
Under the pain of Death 8 January 1669 Elizabeth Muir.
A Man was Banished and fined for that Crime 18 Janu
ary 1602 David Gray. Another Woman was for the like
Crime Scourged and Confined to the Correction house for
a Year 8 April 1655 Agnes Christie. A Woman for double
Adultery was adjudged to be whipp'd burnt on the
cheek and Banished Scotland Never to Return upon
pain of death 4 December 1662 John Redpath. But al
bout there be No Express Law for Inflicting death upon
ordinary adulterers; Sir George Mackenzie Crim.
part i Tit. 1754 observ. on Act 74 Parl. 9 Q. M. I seem
to think that such Crimes may be punished with
death in cases No less Grievous to the parties Injured
and Scandalous to the Common Wealth, than those Decla
red to be Notour adultery by Statute. seeing the
Stealing of a Horse or Sheep is punished in Scotland
capital