

Committed with a Damfel betrothed to another  
Moderately punished than adultery committed with  
another Mans wife *Carpor. ibid. qu. 56 n. 33 & seq.*  
3/4 ofns after being wilfully Deforted by a husband  
wife Commit adultery with another before obtaining  
worce the punishment should be Mitigated *Carpor. ibid.*  
*qu. 58 n. 48 seq.* But the Deforter offending in that Ma-  
nor, finds no favour *Carpor. ibid. n. 61. 4/9* Some dont a-  
low it as any Excuse for a Married person to seek that  
pleasure abroad, which cannot be had at home. *Jo. Wood*  
*ibid. n. 17.* But others think that if one whose husband  
or wife is Impotent *Carpor. ibid. qu. 61 n. 14 & seq.*  
or Refuseth to have more Children *Carpor. ibid. n. 21* Commit  
adultery, the punishment should be lessned. This first  
Meltonia *Crim. part. 1. Tit. 17. 86* infers is of opinion  
that the french Women who proved with Child in adul-  
tery 10 Months after her husband had published by  
word himself with a design to Convict her of that  
Crime, should have been Moderately punished, because  
her husband had put her under so great temptation  
to Incontinence. 5/9 In the opinion of some lawyers, viz  
both husband and wife have committed Adultery, the  
ordinary punishment ought to be abated *Carpor. ibid.*  
*n. 74.* But others are of a contrary sentiment, and  
will in that case have the ordinary punishment to be  
inflicted on both. Because Compensation or pardon be-  
ing committed the like Crime against one anothers  
withe not times or the like punishment. *L. 1355. Stat.*  
*L. 1. de adult. Jo. Wood ibid. n. 17. 6/9* If a wife whose  
husband hath been long absent from her, without  
findings about him Commit Adultery, the ordinary  
punishment is Mitigated *Carpor. Crim. part. 1.*  
*qu. 58 n. 36 & seq.* Thus a wife Convict of 10  
years adultery was only banished, in Respect  
her

her falling into that Crime was in a great Measure  
Excused by her husband long absence who had been five  
years abroad. 12 June & 24 July 1676 Grant Licence of  
Adultery committed by woman and a bachel person, quod  
Vita Vilitas digna legum observatione non credit  
*L. 29. Et de adult. Jo. Wood ibid. n. 10* lead shamefull  
kind, is less severely punished. Thus a Gunber quod  
double adultery with another Gunber's wife was only four  
years banish on the 13th and banished 4 December 1662 John  
his path. Because Gunbers are vice persons who are seldom  
lawfully Married, and often live promiscuously using one  
another's wives as Concubines. When a man Commit  
adultery with another's wife living and a Common whore  
who know not of her being Married, the adulterer is to  
be more gently punished *Carpor. ibid. n. 20 &*  
*seq. qu. 61 n. 42 Jo. Wood Comm. ad Tit. 17. 81.* But the adul-  
terer who is inexcusable, ought to be punished with  
Rigour *Carpor. ibid. n. 52.* In which case that the adul-  
terer know not that the woman he defiled was Married,  
being in animo, may be proved by his own oath *Carpor.*  
*ibid. qu. 61 n. 50. 51. 52* One's Ultimate Endavour to prevent  
adultery brought ad actum prosecution but if he  
stays, it is punishable arbitrarily, *Stat. Matth. de Crim. ad*  
*Tit. 17. 85.*

Adultery may be punished either Civilly before the  
Commissioners of the Bench, in order to a Divorcement and  
the legal effects thereof, *Vid. Vol. 1. pag. 288.* or Crimi-  
nally in order to Capital or arbitrary punishment.  
Notwithstanding in order to the punishment of death  
can be had only before the Court of Justice, as  
*105 Parl. 7. 6* ad being an arbitrary Justice in a  
Capital case which ought not to be trusted to Lords  
of Regality *quod non oberv. on Act 74 Parl. 9. 2. M.*  
Or other Superior Criminal Judges. *Stat. Henry*  
*Comm.*