person who did the Injury was known to be a Careless/ negligate fellow and guilty of such Rashness before he was taken into the Service, Innkeeper and hostler are not Accountable for fire occasioned by passengers or travellers Lodging or haunting with them Prosp. Farin. de Var. ac Diver. Crim. qu. 110 n. 122. 132. Borlich. part 4 Concl. 25 n. 105 & Legg. Carpzov. Crim. part 1 qu. 39 n. 51 & Legg.

Governours of Burghs are to Enquire, how fire that Negligence happened therein, and to punish offenders, and failing in that part of their duty, are to be lyable in 10 pounds to the King. Those by whose Negligence fire is Raised in Burgh and towns, are to be punished by the Lords &c the Barons, in the same Manner as such offenders within Burgh are punishable by the Magistrates act 75 Parl. 4 J. 1.

By the law of England, no Action can be Maintained against any in whose house or Chamber fire doth Accidentally begin without prejudice to Contracts or Agreements betwixt the Lord and Tenant 6 H. cap. 31 & 6. 7. 8 junct. 10 H. cap. 14 &c.

One may pull down the house of his Neighbour that is on fire, to preserve his own; if there was an Apparent Necessity for it, or a Reasonable grounds of fear that his own house would otherways be destroyed L. 49 §1 Ad L. Aquil. altho the fire by providence did not reach his Prosp. Farin. de Var. ac Divers. Crim qu. 110 n. 144. Upon the Next house to that on fire may be thrown down to stop the fire's Spreading farther, and Devouring More houses; if that Next house was Certainly to have been Consumed Borlich. part 4 Concl. 25 n. 125. And the proper assembled and Judges of the Necessity of so doeing: because there may not be opportunity to Consult the Magistrate Quaeritur Where an Interjacent house is cast down to save other houses, who shall make up the Damage to the owner of the Demolished houses? It is Answered, if private persons Demolished such a house by order of the publick Magistrate, the Demolishers are not Accountable

but only the Magistrates who gave the order: and likewise those only are Accountable when the order was given without any just ground to fear that the fire would otherways Spread further and do more harm Prosp. Farin. Ibid. n. 147 & 148. If the person who Raised the fire be known, he, and not the Demolishers of a house to stop its progress is liable to Repair the loss of the Demolished house Prosp. Farin. ibid. n. 149. But if the fire raiser be not known, the Inhabitants of the house of the house Demolished to stop its progress Prosp. Farin. ibid. n. 150. Its Declared Lawful to the persons of Common thieves and Rebels Entring into houses to burn such houses with Intent to take and slay those thieves and Rebels act 6 Parl. 3 J. 5 act 33 Parl. 1 J. 6. And some Justify a Custom whereby the Neighbours of a Man whose house a burning throw him into the fire without Examining how it was Raised Borlich. Part 4 Concl. 25 n. 130.

When a burning hath happened, it is great by Contraveen who the Inhabitant of the house it Arose in ought to prove his Exculpation that he was sufficiently careful in guarding against such an Accident; or the owner of the house or Neighbour Injured by the burning shall be proved, that it was occasioned thro' the Possessors Default: Some will have the former Condemned, Unless he Clear himself by positive proof: seeing houses being Mostly set on fire by the fault of the Inhabitants L. 3 §1 & de occis proof Vig. Else Presumption of guilt lyes against them Farinac. Contro. lib. 1 caps. 87. Jan Dacis. lib. 3 Tit. 6 Def. 9 Infine Carpzov. Crim. part 1 qu. 39 n. 67 & Legg. Vinn. Select. quest. lib. 1 cap. 33. Others more probably, throw the Necessity of proving upon those who Claim or pursue Reparation of loss by fire from the Inhabitants. Because, Actori vel affirmanti incumbit probatio L. 4. C. de Ed. & de L. 2 L. 21 de probat. & de Non Num. pecun. And likewise it would be the first Sufferer by his Negligence who Suffers

Edictum of the Act