

clamorous from the french hives to hoot or shout or cry
 to cry, and go along with all fowls men in pursuit of the
 criminals; and if they escape into another Jurisdiction,
 should acquaint the Judge of that Jurisdiction, to do the like
 Diligence, and so from one Judge to another, till the fugi-
 tives be apprehended and committed to prison. Major Ma-
 zid having killed Mr Robert Park town Clerk of Glasgow
 and thereupon the Provost and one of the Kings Privy Coun-
 cil verbally ordered some of the Inhabitants of the City, who
 might be soonest ready immediately to pursue Apprehension
 and bring him to Justice, and for that end causing the
 Alarm bells of the town to warn persons to follow him
 who in the Pursuit shot him in a Garden within the flint
 of Kenfrew where he absconded. Those who shot him being
 indicted for the slaughter, it was pleaded for the Pannel
 1^o they being obliged by law to concur and assist to ap-
 prehend the Murderer, who was pursued the hand and fugi-
 tive from the law; their killing him in the Pursuit was
 no Crime, act 22 Parl. 1 sess. 1 act 6 Parl. 1 sess. 2 Ch. 2. 2^o
 tor 19. 6. Numb. 35. 19. 27. 2^o It being lawful to pursue and
 Apprehend the fugitive Murderer, it is presumed that what
 the Pannel did in that affair was Lawfully and Rea-
 sonably done, viz. that they killed him because he
 would not yield himself prisoner. They had having a
 drawn sword in his hand when he was killed, was
 a Convincing Evidence that he designed to stand to
 his Defence and not suffer himself to be taken; and
 probably had he not been killed, he would have killed
 some of those that came to seize him. So that 3^o of the
 Pannels Descent in Actus Reus in pursuit of a Man
 slayer by order of a Magistrate if they did kill, must stand
 unpunished l. 4 C. 2. 2^o qui ad Eccles. confug. Jul. Bla-
 sentant lib. 5 § Comp. adim n. 53 § fin. qui 29 n. 2. Altho
 it they were not put in periculo vite by the Criminal
 It was pleaded for the pursuer 1^o to Allow any

private party to Exercise the highest and severest act of
 Jurisdiction by killing his Neighbour, upon pretence that
 he had committed slaughter, would give occasion to tumults
 Murders and Unspeakeable Disorders. The Innocent might
 suffer as well as the guilty: This every person is presumed
 Innocent, till the contrary appear by a legal sentence;
 It being known, that many Accused of Crimes are accus-
 zed upon their legal Defences. Besides, if it were lawful
 to kill the first Murderer, by parity of Reason, the se-
 cond Murderer might be so treated. Nay, the Judge being pre-
 sent in the place could not have committed such flag-
 rant Impudence: seeing he could not condemn a private causa-
 there is a vast Difference betwixt killing him and cry,
 and committing Unwarlike slaughter upon the
 person in fuga. The Law allowing to kill Common Rob-
 bers committing the Crime d. act 22 Parl. 1 sess. 1 Ch. 2
 cannot be extended to parallel cases: for penal laws are
 most strictly interpreted; and in Criminal Matters there is
 no Consequence a Major ad Minus, no latitude is allowed
 ubi agitur de vite hominis, but the precise letter of the
 Law must be observed. The Goals of some times cited are
 not applicable to the present case: for what was allowed
 to the avenger of blood as nearest of kin (which the
 Pannels are not to Mr Park) must be. And ordered,
 where the Congregation and Body of the people had de-
 clared a fugitive Murderer incapable of the privileges
 of a city of Refuge, which was a kind of sentence. 2^o A Plea
 tance pleaded by the Pannels as a Defence, is not to be
 presumed more than a Manslayers plea that he was in-
 vaded in the Execution of a Baptism, would be presumed
 to Execute him from Murder committed in the ex-
 ercise of his office. For it being urged as a Crime, it
 must as all Crimes be proved: and it is of no Moment
 that the Major foot was drawn; seeing he being
 killed under blood of Right, those who killed him might