

Ecclesiastical punishments peculiar and appropria-  
 to the Clergy, are Suspension, and Deposition or Degradation.

Altho' most certainly the pains and penalties instituted by God himself among his  
 antient people the Gradules upon the Breach of their Laws were not the highest  
 wisdom fitted to that state; and the Gradules punishment shoud come  
 up to this pattern as near as may be; yet the Degrees and kinds of punishment of  
 offences in foro civili: that Jurisdiction are not obiding to other Kingdoms or States,  
 who therof (as well Christian as Heathen) have borrow'd from them.

Punishments are inflicted by the temporal Courts  
 either upon a presumption of guilt without trial,  
 or are the Consequences of a legal trial.

#### Sect. 1.

Punishments inflicted without trials.

Altho' law doth allow to every offender, be his  
 Crime never so great and the Evidence never so  
 manifest, a lawful trial. Yet where trial by a sus-  
 pected Criminal in Custody cannot proceed for want  
 of proof of an overt, atrocious crime; or where it  
 owing to such a suspected offender himself that

it not tried, by his flying from Justice punishments are  
 inflicted upon the presumption of guilt, viz. Torture, out-  
 -lawry &c.

#### 1. of Torture

Torture is the Subjecting a person suspected of a Crime,  
 to some Grievous Torments, in order to draw from him some  
 Confession of the truth. The Athenians and Rhodians seem  
 to have been the first who fell upon and Practis'd this for  
 humane method of Torture, to oblige suspected Criminals  
 to make a plain breast. No Jobb. Paratit. 1. de Lueton. 2.  
 And other Nations Copying after them have reduced it  
 into Rules and Regulations as to the Nature, degrees, and  
 Method of Torture; those that may try by Torture; the cases  
 wherein; and the persons upon whom it may be us'd; and the  
 legal Effects of it.

There are Different kinds of Torture us'd in Different  
 places. John Holland Duke of Exeter when Constable of the  
 Tower of London in the Reign of King Henry the Sixth of  
 England first brought into the Tower the Rack or Brake  
 thereupon called the Duke of Exeter's daughter, which is  
 an Engine with Cords and Strings to extort Confession  
 from Delinquents. These Different Instruments of  
 Torture have been us'd in Scotland, viz. the Boole,  
 Plumkins, and Pilwindies.

Some make five, some three, and some but two de-  
 grees of Torture: Tho' no certain Rule as to that can  
 be given, but the Judge must order the same according  
 to his Discretion; having Respect to the quality of  
 the Crime, Condition of the person, and the presumption  
 of guilt. Persons are not usually Tortured soon after  
 Dinner or Supper. When several are to suffer upon  
 the same Account, he who is most suspected is to be  
 begun with: and all being equally suspected, he is  
 first taken to task who hath least Courage and is  
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