

term it. Capital punishment or punishment of Death  
 called *Mortuum hincipitum*, because it can be but once  
 inflicted, is ordinarily performed in Scotland upon persons  
 of quality by beheading with an instrument called the *Maidon*  
 which is a broad piece of Iron about a foot square, or  
 thereabouts on the lower part, and loaded above with a great  
 weight of Lead. Execution by it is thus performed: The  
*Maidon* is pulled up to the top of a *Remors Woodon*  
 frame a Matter of ten foot high with *Mounting* so ex-  
 posed for it to slide in; about four foot from the Ground &  
 Convenience is made for the Malefactor to lay his Head  
 with a kind of Bar fastned to keep him from flinching;  
 upon a sign given, the *Maidon* is let down, and falling in  
 a Moment separates the head from the Body. Crimes  
 in foreign Countries are behad'd kneeling or standing  
 with a sword. In England the Offenders *Head laid upon*  
 Block is struck off with an axe. With us Common Offenders  
 are hang'd on a Gibbet by the neck till they be Dead. This  
 infamous death by hanging between Heaven and Earth  
 implies that the Criminal is Unworthy of either, *Collected*  
 4<sup>th</sup> and *Plinius* call'd *Prepostoroid* death, because *postor*  
 but *Interdicitur* *in carceris* *Quaritur*. In England the  
 Judgment for Treason of death is all ways that the  
 party shall be hang'd by the Neck till dead, *Rowland*  
*Ex lib. 2 Cap. 4 & 57*. Atrocious Criminals, such as  
 Witches, Sorcerers &c. are first strangled and then burnt  
 at a Stake. But *Forgering* death, as *Breaking* on the  
 Wheel, and the like Common in other Christian countries  
 are abhor'd in Britain as too Cruel to be us'd by the  
 professors of Christianity, and a thing that frequently  
 occasions them to die *Blaspheming*. And poisoning  
 is a way of death so much hated, that law doth not  
 allow it to be inflicted by Judges as a punishment  
 upon Capital Offenders *l. 8 51 ff de penis*. Confiscation  
 of Movable to the King is by Custom the Undoubted  
 Consequence of any Capital Crime, Implied *Cap. Juris*  
*lex non Capripot. in* the sentenced *Cap. Juris* *l. 1*  
*Tit. 16. 526* *M. Kozie* *Crime* *part 1* *Tit. 14. 55* *part 2*  
*Tit.*

*Tit. 30. 53*. Which is Conform to the French law, qui *Confisque*  
*les Corps, Confisque les biens*. For *Mobilia sequuntur*  
*personam*. That is, the Criminal loses the Movable  
 he had the time of the sentence given against him. For  
 his continuing Year and day under sentence of death,  
 doth not make his life out *Eschat* to fail, he can live  
 that is beyond the pain of *Cap. Juris* *l. 1* *no Pontuany*.  
 Confiscation of both real and personal Estate follows also  
 on Treason. And in some cases the life out *Eschat* of *person*  
 found denou'ded *Crigitos* for Capital Crimes falls to  
 his Majesty *ut supra* *pag. 51*. As a person judicially  
 indicted can't be acquitted for being simple and prodigal,  
 cannot dispossess of his Conage without Consent of the In-  
 terditors. So neither can it in the opinion of the Doctors  
 be Confiscated upon his committing a Capital Crime with-  
 out their Consent, *Cap. Juris* *l. 1* *no Pontuany*.  
*ad l. 1* *Cap. Juris* *l. 1* *no Pontuany*. For that *Interdicitur* *quid de* *Ingien*  
*do, quantum facere potest Contrahendo*. But they allow  
 Confiscation for a Crime proved against an Interdited  
 person, being the privilege of Interdiction ought not to  
 defend against the punishment of their Crimes, *Cap. Juris*  
*l. 1* *Etiam* *ff solut. Matrim* *l. 1* *in* the opinion of Sir  
 George *M. Kozie* holds in Scotland, because here an Inter-  
 dited person is not proof against a Capital Crime. If one Inter-  
 dited for a Capital Crime lies in prison, or out of it, for  
 Years thereafter without a Remission, and die naturally  
 in this Condition; It may be a question how any estate  
 heritable or Movable acquired by him in the Interval  
 betwixt the sentence and his death should go to  
 which, he being under sentence of Death, and so having  
 neither Testamentary Factionism, nor any person capable  
 to serve heir to him in respect he dies not in pace  
*Domini* *Regis*; his Movable and land so bequeir'd  
 might in strict law seem to be Caduery. But if  
 being such Movable had not *Interd* his single  
*Eschat*, and there is no life out *Eschat* as a fore  
*l. 1*, and it were a Novelty to make the land Cadu-  
 ery: Sir James Stuart *Confiscat* to *Interd* *de* *Interd*  
*Tit.*