

Garrido Dolichus Quae 6. n. 20. Reciproca fidei natione and
 Brief for a just cause and the Tudd salt for a of Lovey Post
 Garrido penis Gomp. Quae 91 n. 48 Regg. Quae 98 n. 17
 & Regg. Edg. xv. Crim. part 3 Quae. 147 n. 55. & Regg. An
 Malth. 2 Crim. Goldcom. cap. 27. 14 are ground to allow
 Arbitrary the not statutory punishment. At Honore Crim
 part 2 pt. 30. 56. In like manner the the meaness of
 a Crime in the Commission whereof fraud or Contrivance
 = vance appears doth not Regularly abate ordinary
 punishments Yet it is a reason to mitigate a Statute
 punishment. Malcomie lib. 58. Doors are accorded in
 favour in the case of Arbitrary punishment to Crim.
 Crim. part 3 Quae. 147 n. 41. The ordinary punish-
 ments ought to be inflicted on offenders without re-
 spect of persons.

The Imposing Extraordinary Fines, and the Dis-
 posing of fines and for feines before sentence, is Contrary
 to Law, Blam of Right 1689.

It is to be observed that the Law of Forfeiture
 punishment is in Judgment of Law higher than the gra-
 ff fine what ever Coke 3 Inst. 142 Handb. p. C. Cr.
 lib. 1 Cap. 21 Sect. 17

The Law of Talionis, Lex or jena Galionis the
 retaliation that is, a Retribution or punishment where
 an Evil is Returned perfectly like that Committed again
 us, by another, or the doing to one as he had done to
 them, which we usually Express by the word Eye for
 tooth, which we usually Express by the word Eye for
 tooth, was given by God to his people the
 Jews, Gen. 21. 23. 24. 25. Lev. 24. 19. 26. Deut. 19. 18.
 21. Talionis which is passed to the Grecians, and from
 them to the Romans. l. 254. De orig. Jur. punct. 57 Just.
 de Jur. Nov. 142 Cap. 1 Nov. Leon. 92. c. 1 Caich. 2. In. 3.
 c. 263 caud. 2. In. 3. From other Nations Copies of
 The Equity of this Law, is confirmed by the Gospel
 precept, Matth. 7. 2 and Immovable Justice of
 Divine Justice. Executed upon offenders, as Rom. 13. 2
 10. 11. It is that Deceives Face by Personating Equity
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27. 10. & Regg. was Cleared and Supplanted by Labor who sub-
 stituted each in the place of Rachel Gen. 29. 23 & Regg. The
 Daughter of Herodias who Contrived the Beheading of John
 the Baptist Matthew 14. 8. was as she passed a river beset
 by the Fishermen her feet by the Hook with the long Pained Man-
 dor the Water, Mark. 8. 14. lib. 1 Cap. 20. The Jews who have
 cured in the Wicked Emiffing our blessed Lord, were Crucified
 in Great Numbers at the hope of Sirup. Lam. Joseph. de Bell. Ju-
 daic. lib. 6. cap. 12. Valens the Emperour who burnt 80 Cr. Thosa
 Christians, was at last burnt himself in a little Cottage where
 he lay hid in his flight from the Soldiers, Socr. Hist. Eccl. lib. 4.
 Eusebius acquaints us, that the first Martyr was perished
 by that Frigidus which is the River of the Tiber in the line
 Regard the first who pretends to Examine human Law in an
 Iron cage and to show him ridiculous, was for so and himself.

This Retaliation neither was nor should or should be
 always Expected according to an Arithmetical or
 Pittagorian proportion by taking Eye for Eye and tooth
 for tooth in a literal sense. For if a man were to
 pull out another Eye, he cannot be punished in that matter
 having no Eye to lose. And it were not Equitable to cut off the
 hand of an one handed Man, for a man depriving one limb of
 one of his two hands: Nor to allow the husband of a Woman
 another had committed adultery with, to demand that of her
 wife; or a Man whose goods were Stolen to require his left
 Eye for the thief; or yet to punish the same parent
 on a father for beating his Son; as on a Son for beating
 his parents; or on a Magistrate or Mr. Justice for smiting his
 servant as on the servant for his like offence done to the
 Master or Magistrate. But it suffices that the offender should
 do the Equivalent according to Geometrical Analogical
 or Aristotelial proportion with respect to himself, as
 for and other Circumstances of the Crime. For as much as
 such a parity or Equality of Punishment could not always
 be observed, the Romans set a price that Natural piece of
 Justice and the Praetor allowed such as had suffered any
 Injury, to make an Estimate thereof in Money that Justice
 might be Done. In that way, only Resolving to himself
 the power of Moderating the same as it now constantly
 practice. Thus Talionis is now almost quite dis-
 used, and never Observed in Civil Justice but with Regard
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