

Culpable homicide, which is agreeable to the law of the
 21.22. Much more ought a school master to be
 punished for dealing so with his scholars, whom he was bound
 to treat with tender affection, and had not so large power
 over, as a Master hath over a slave bought with his
 Money. Nor is there any party culpable the execution of
 Depones and that barbarous Executions of Discipline, because
 a man attacked for life can hardly know for how long
 the exact Measure of Depones, and by cutting the aggr
 for returned but what the aggr for attempted upon
 him: where as he cannot avoid an attack, nor
 in any hazard by his young scholars. The Instances of
 Physician or Midwife killing a patient, is as well to be
 the purpose: for their Intention was not to kill, nor
 free of Anger and Wrath, and their error may proceed
 from the Uncertainty of their Art. Whereas the puni-
 in an excess of Rage Under pretext of Discipline, find
 killed out of hand. But the Physician contrary to the
 of art purge and bleed his patient again and again
 without giving over till he purge out and destroy
 life, no doubt he is guilty of homicide. His Execution
 of the offend drawn from the Instruction is taken
 off by the extraordinary whipping,
 and death found to be In being. The Court found the
 Judgment relevant to infer the pain of death
 found any of the Qualifications relevant thereto
 immediately following the relevant separation to infer
 an arbitrary punishment, 15 January 1700. Mr Robert
 Carnichael. A found did having cruelly given a blow
 for throwing a full & acorn pot upon him, so
 stroked on the head and some other part of the Body
 where by she fell down a Stair and immediately
 died, and found in an Anguishing Condition till
 that day when she died, was found relevant to infer
 the manslaughter.

When

When one is killed in a Confused Aggravation of several
 Contending parties, it is not easy to determine the
 punishment of such homicide. In this matter the
 Court found the Depones confirm their Evidence and last
 in a mass of Distinctions, subtleties, and perplexions
 and Limitations. I shall Endeavour to show by
 some positions most generally received and agreeable to
 of itself when it is doubtful, by which of the several
 Damage done or loss of a thing, as that casting things down
 from a high place upon the Country or upon a way, is to
 stand or walk, and an equally liable to happen than
 the same. It is to be observed that which of the several
 was partly is, it is to be observed that which of the several
 same: not when it is killed in a way, and it is not
 noted which of the persons engaged therein did kill
 none of them are to be subjected to the ordinary punishment
 but to be subjected to the ordinary punishment
 cap. 3 n. 20. fol. 4. cap. 16. 5 & 8 homicide n. 37 in fine
 & 28. Prosp. Jurind. de jur. gemp. Inst. 96 n. 14. in pro-
 sum. par. 1 qu. 25 n. 5. 39. Which Exemption from capital
 punishment, is not allowed out of any kind of
 passion to human frailty or hard part of offension; a third
 in case of necessity, as the Court found: but because
 of the Uncertainty of the person by whom the crime was com-
 mitted, and the hardship that more than one should be
 one man, except when all are guilty of the offence
 against the punishment to be given. The Court
 found the Depones to be relevant to infer the
 are liable to an arbitrary punishment, the Court
 and. Mat. vid. Pro. n. 6. 35. The Court's sight being
 killed by a shot that came from a room where in the
 found was, and it not being proved who it was that
 shot each of them was fined in 800 Merks extending
 in whole to 2400 where of 1800 Merks was to be paid to
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