

her power. Therefore whose it was found only proved
by verdict of a jury, that a Man seduced for the Rape
a married Woman at the suit of her husband, was pro-
ving above her, and that while they were on the ground
together she was bound to cry out, the person qui Clam
torquans was deemed and adjudged only to pay to
his husband 300 pound for his Damages and Expenses
18 November 1723 Colonel Francis Charteris. By
law of England, to Murther a Rape, there must be some
Knowledge both penetration and Emision's sanguine
and therefore Emision it is no Rape, unless there
be in the Rape's just. Co. Cro. Car. 332 Page's case
pl. Cr. lib. 1 chap. 41 51 that is, unless the Man enter the
Woman's Body. For the opinion of some Doctors of the
law, if a whore be Ravished, it is no Rape, because she
had no Chastity to lose or to be Violated, but that the
person who is so Violated upon her may be punished
Arbitrarily, Gul. Clar. 5 Chapter 11 3 Prosp. Garin
n. 135 the Reg. Carproz. Crim. part 1 Qu. 40 n. 2 C. lib.
Matth. de Crim. ad L. lib. 28 Vi publici. cap. 2 n. 4. But
Saxony, to have Carnal Knowledge of a whore against
her will Carproz. lib. part 2 qu. 75 n. 53 the Reg. And
England it is no Excuse to a Rape, that the Woman
was a Common Strumpet Hamf. pl. Cox. 226. Hamf.
pl. Cr. lib. 1 Chap. 41 52. Woods Just. lib. of the law of
England Ed. Octavo pag. 625. For such is still
under the protection of the law and may be forced.

By the law of Mexico, if a Man force a woman
Samopland by with her, he shall die without
By the civil law a Rape is punished with death
C. de Raptu Virg. And in Scotland it is punishable with
death and Confiscation of Moveables Mithon's Crim.
part 1. Tit. 16 54. For albeit it is no where expressly
declared to be Capital, the punishment of death
is implied in more than one place of our law. Qua

Viz. where Rape is Declared punishable as treason, Mithon
dor, fine raising and Robbery, Reg. Maj. lib. 4 cap. 8 n. 7.
which are all punished with death. And where the punish-
ment is Capital &c. of the party Ravished is said to come
from Capital and not from Arbitrary punishment but
4 Parl. 21 J. 6. Which argues that the Crime is other
ways Capitally punished. Therefore one was condemned
to be hanged for abusing and forcing a Young Girl
of Eleven Years of age 30 November 1608 John Erroll.
A Man who had forced and abused a Young Virgin of
his Years to be hanged 20 February 1629 Henry Spuddy. Another
was adjudged to be beheaded for forcing abusing and
Ravishing a Virgin of 18 Years to be hanged and Riving up
her secret parts ult. Feb. 1680 William McRae. For
Violent Rape of a forsworn Maid or being and part
thereof was found relevant to infer the pain of death
and Execution of Moveables 22 Feb. 1697 Captain Charles
Douglaf. And Minors are punished with death for
a Rape Carproz. Crim. part 2 qu. 75 n. 47 & Reg. Mithon
Crim. part 1 Gul. 16 57. But a Man having come
in the Kings will for Ravishing a Widow his wife
her forth of a house, his Majesty Declared his will
to be only that the offender should pay 20 Marks
and deliver his brown horse to his Majesty's use 17 Feb.
1601 John Kinraid of Craigloich. And a Man attempt-
ing to by or have Carnal dealing by Real and
Proxime acts with a female Child of six Years of age
without lacerating her privities, was hanged
to infer an Arbitrary punishment 22 November 1703
James Gray.

By the Common law of England, a Rape was
at first Felony. The punishment was afterwards
committed to the left of those Members whereby the
Ravishing