

any other part of his body whereby he is disabled to offend his enemy, or defend himself, or to work for his living is Mayhem. But cutting off an ear or nose, or beating out the Grinders or floss teeth, is no mayhem: because a man is not thereby weakened, but only disfigured. Glanvil lib. 14 cap. 7. Bracton fol. 145 a. Stamp 38. & Pulton 2 part. 16. c.

Mutilation and Dismemberment are according to the law of Moses Exod. 21. 23. 24. 25. Levit. 24. 19. 20. Deut. 19. 18. 19. 21. The Civil law § 7 Just. de Injur. Nov. 149 cap. 1. Nov. Leon. 92. And the Canon law c. 1 can. 23. qu. 3. c. 288 can. 2 qu. 3 Punished by Retaliation, or the doing to the offender as he did to the person injured. By the old law of England, he who Maimed another depriving him of any part of his body, was to lose the like part. Coke 3 Just. 118. But now a Dishearer is those Mads botwist Mayhem Committed by private Mads Males, and that Committed without force thought Males. For because in old times such a Dishearer would Maim or Rob people, was in use to cut out the tongue or put out the eyes of the party injured, that he might not be able to accuse them; therefore the so putting tongues or putting out eyes of Males pronounced was Mads Felony § 9 cap. 5. Which statute as my Lord Coke (3 Just. 64) observes had so good effect, that he did not remember of any Indictment raised upon it more as once. But yet was afterwards thought necessary to Make a new law, whereby any person or persons who do on purpose and forethought Maim or Rob fully but out or cut out the tongue, put out an eye, slit the Nose, cut off the Nose or lip, or put off or disable any limb or Member of any Subject of his Majesty, with Intention to Maim or Disfigure him, and the Counsellors, Advisors and Abettors of such offenders are declared to be felons and punishable with death as in the

case of felony, without Benefit of Clergy: the an Attainder of such Felony shall not work Corruption of Blood, or Loss of the offenders Land goods or Chattels or of his wife dowry 228 23 par. 2 cap. 1 § 7. 8. But Mayhem without private Males, Males, Males, by my Lord Coke to be the least of all Crimes Depriving death, and the greatest of all other Inferior offences, Just. 27 a. 3 Just. 118 is punished only by Imprisonment, a fine and Damages according to the quality of the offence.

By the old law of this land, like process against one who thro' forgetfulness for long had Maimed one was for obliging him to appear, and a Rendant as against a Man Player Stat. of H. Rob. 2 cap. 11. 8. some find and Rival flows of Domesday to be put under hardy to the law as Commisors of Slughter and Mutilation Act 118 Par. 6 J. 5 and Criminal Letters were raised upon Slughter, & Mutilation and other Capital Crimes Act 76 Par. 6 J. 6. But from hence we are not to conclude, that Mutilation is punished Capitally. For it is no where declared punishable by death: on the contrary, the perpetrating of Mutilation was permitted to buy and redeem his life and as yet the party injured d. Stat. Rob. 2 cap. 11. Now as yet the party injured by any who Undergoes Capital Absolution is not sued by any who Undergoes Capital punishments Nor is there any Instance in all the books of the Journal of one who suffered death for this Crime: the ordinary punishment thereof is Confiscation of Moveables and a settlement to the party injured of his Movable's on Act 118 Par. 7 J. 5. This fine is not punished with death, and there is no law Expressly Making a part of the punishment, Sir George Mathews (Esq.) thinks Confiscation of the offender's Moveables Unwarrantable at Reason being guilty of breaking another's Leg was deemed to pay