

either case (for they are not of the nature of a *Deodand*) they being no cause of his death.

*Deodand, quid.*

Next what shall be forfeited and taken for a *Deodand*: The old Rule is, *Omnia quæ movent ad mortem, sunt Deodanda*; and yet besides, *Deodands* may be of some things that a Man shall move or fall from, though the thing it self moves not: As to fall from a Ship, Cart, Mow of Corn or Hay, &c. So as *Deodands* are any Goods which do cause, or are occasion of the death of a Man by Misadventure, *Co. ibid.* See more *Fitz. Cor.* 314, 326, 341, 342, 344, 388, 389, 398, 401, 409.

Dyer 77.  
Co. 5.110.

If a Man killeth another with my Sword (or other Weapon of mine) my Weapon shall be forfeit, as a *Deodand*; for it shall be adjudged my fault, that I did not keep my Weapon from him, *Doct. & Stud. f. 156.b.*

Br. Fort.  
112.

If I shall lend another Man my Sword or other Weapon, knowing him to be minded to go fight, or make an affray therewith, and he with my Weapon in such fight or affray, killeth one, *quare*, if this be not Felony in me: For you shall find that an Abbot that lent a Bow and Arrows to another, to the intent to kill the Kings Deer, was therefore fined and ransomed. *Comp. Author des Courts, fol. 191.*

The Inquiry of such casual death, belongeth also to the Coroner: But if the Coroner cannot have the sight of the Body, and so cannot inquire thereof, *quare*, how the King shall be intituled to the Goods. *Vide hic postea.*

The Officer of Coroner in such Cases. See *Bracton lib. 3. & Crompton 226.*

### Homicide upon Necessity. CHAP. CL. V. 89.

S. I.  
*Justice command- ed. Justice.*

SOMETIME the Justice of Law commandeth a Man to be put to death, As when the Judge hath pronounced Sentence of Death against an Offender (attainted by due course of Law) there (in due execution of Justice) an Officer, or other person thereto lawfully deputed, may orderly execute such Judgment or Sentence according to his Warrant; and such Sentence or Judgment pronounced by the Judge, and after lawfully executed by the Officer, leaveth the name and nature of Murder or Homicide, and is called Justice, or rather Judgment, which is the lawful execution of Justice.

*Istud autem homicidium, si sit ex litere, vel delectatione effundendi humani sanguinem, licet iuste accidat, ista tamen peccat mortaliter propter intentionem corruptam.* Bract. 120.

But if the Officer or other person shall proceed therein upon his own Authority, without Warrant, or *Non obstante ordine juris* 5 an where an Offender hath Judgment given upon him to be hanged, if the Sheriff or other Officer, &c. shall behead him, or by other means put him to death. This is Felony in such Officer, *Co. lib. 7. 14.*

Strand 11.  
See Doct. & Stud. fol. 133.

Also if a Stranger being not thereto lawfully deputed, shall (upon his own Authority) put to death an Offender that is condemned to die. This is Felony. See *Co. 7. 14.*

Stant 27.

Nay, if the Judge himself, who gave the Judgment of death upon an Offender, shall after put the same Offender to death, it is not justifiable by him.

If the Justices of Peace shall arraign a Man of Treason before them at their Sessions, who is found guilty, &c. and thereupon is hanged: This

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