

which reason leases, and other conveyances, for life, are usually made to have and to hold for the term of one's *natural* life^d. But, even in the times of popery, the law of England took no cognizance of *profession* in any foreign country, because the fact could not be tried in our courts^e; and therefore, since the reformation, the disability is held to be abolished^f.

THIS natural life being, as was before observed, the immediate donation of the great creator, cannot legally be disposed of or destroyed by any individual, neither by the person himself nor by any other of his fellow creatures, merely upon their own authority. Yet nevertheless it may, by the divine permission, be frequently forfeited for the breach of those laws of society, which are enforced by the sanction of capital punishments; of the nature, restrictions, expedience, and legality of which, we may hereafter more conveniently enquire in the concluding book of these commentaries. At present, I shall only observe, that whenever the *constitution* of a state vests in any man, or body of men, a power of destroying at pleasure, without the direction of laws, the lives or members of the subject, such constitution is in the highest degree tyrannical: and that whenever any *laws* direct such destruction for light and trivial causes, such laws are likewise tyrannical, though in an inferior degree; because here the subject is aware of the danger he is exposed to, and may by prudent caution provide against it. The statute law of England does therefore very seldom, and the common law does never, inflict any punishment extending to life or limb, unless upon the highest necessity: and the constitution is an utter stranger to any arbitrary power of killing or maiming the subject without the express warrant of law. “*Nullus liber homo, says the great charter^g, aliquo modo destruatur, nisi per legale iudicium parium suorum aut per legem terrae.*” Which words, “*aliquo modo destruatur,*” according to sir Edward Coke^h, include a prohibition not only of *killing*, and *maiming*, but also of *torturing* (to which our laws are

^d 2 Rep. 48. Co. Litt. 132.

^e Co. Litt. 132.

^f 1 Salk. 162.

^g c. 29.

^h 2 Inst. 48.

strangers)