

be liable simpliciter for the debts and he is to offer the Inventory when he
In co, with Verification to be Univer sally liable if he conceal any thing, but
whether Inventory be given up or not, real diligence may proceed against the
Estate of the deceased Debtor. Tho' the King or his Donatary is not personally
Liable for the debts of the Deceased: Yet if the Donatary loose the benefit
of a Mutual Contract, he must either perform the obligations incumbent
upon the party Deceased, or else he will be Debarred by the quality of his
Right ob causam dala non de causam dala lib. 3 Tit. 3 § 47 vers. ult. &
honest. lib. 4 Tit. 13 § 1. And a Donatary pursuing for payment of a
bond due to the Deceased, was found liable to full fill the Executors
bond 20 June 1677 Alexander contra Lord Patton.

Creditors may affect and carry away the Estate by proper
sequestrance the Husband or Wife surviving may claim their
Legal Interest in it Spotswood pra. Tit. Bastardy. promise of the Deceased
Estate and Donatary, if any be, are held for their Interest against
Creditors for Establishing the Debt. Upon which Deceased Cognitio nunciat
the heretage or Moveables may be ad judged, or the Moveables may be
arrested and made forth coming if the Deceased was a Bastard
i.e. 4 Tit. 12 § 4. And in the case of an Ullimist heirs the Executors
may also confirm the Moveables as Executors to their Deceased Lord
for the Sir George McKenzie (Insl. lib. 3 Tit. 10 § 1) says that Executors
use the same Execution in the case of Bastardy and Ullimist heires. The
Lord Stair Lib. 3 Tit. 3 § 47 vers. Ullimist heires (infir) holds that in
Cases of Bastardy Confirmation of Executors is not competent: Because
Bastard, who is Incapable to make a Testament, can have no Executors.

When lands holden of a Subject fall to the King by forfeiture
Bastardy, or Ullimist heires, his Majesty, who cannot hold of a higher
Superior, doth, by a Letter of Presentation under the quarter Seal from
state a Donatary to that Superior, to be his Vassal in place of the former
Craig. Pra. lib. 1 Tit. 14 § 1 Stair lib. 2 Tit. 4 § 2. Whom the Superior
is obliged to receive gratis without claiming a Quarrelment 25 June
1680 L. Blair contra Lord Montgomery And if he refuse
the King's Presentee, he the Superior loses his Superiority during his
lifetime Craig. ibid.

In England the King by virtue of his prerogative is entitled
to the goods of all Felons Attainted, or fugitives where soever they be
found, and if they have lands and governments, the King has the profits
thereof for a year and a day 17 Edw. 3 Cap. 16

Tit. 21

Confiscation of goods because occupied or claimed by Hostile
Goods Confiscated upon such Account are Waifs, Strays, Wreck
Treasure Trove or treasure found, and Deodand.

Sect. 1

of Waifs and Strays.
Waifs are Vacant goods, which no person owns. Waifs (bona
vacata) in the Law of England, are properly Stollens goods which a thief
follows

followed with Hie and Cry or overcharge with the burden off, Waives
i.e. Throws away or leaves behind him to facilitate his flight or escape.
Which are forfeited to the Lord of the Manor, as a punishment to the owner
for not pursuing and bringing the thief to be attainted but Generally,
Waif signifies the same as res pro Derelicto habita, and our Lawyers call
any thing lost and found by another a Waif or Waith.

Strays, or Extrays (Extra hira) called in the French law Evave are
Wandering cattle, or tame beasts, which have strayed from their Masters.
Concerning which the Law of Moses ordains to bring again into the fold
when their beasts had went astray, and if the owner is not near, or unknown
to thee, to keep it for thee, and then restore it; and to do so with
all things lost by him Deuter. 22. 1. 2. 3.

Waifs and Strays must be proclaimed, in order to find out the
owner; upon publishing such things to be waifs, recover them they
paying the Expence of keeping, and other Charges. But such
Waifs and Strays if the person appears after a certain time to claim
them, or if they are found as such, or to others by grant
from his Majesty, Lord Alackham. 2. 2. 4. 9. 17. 18. 19. 20. 21. 22. 23.
According to the late Queen's Statute, the Lord's Land is not to be
long to the occupant. For the reason that the Statute is not to be
taken to be intended to give any thing never known to have been any
owner's, or party's, and found on the sea shore shall be

Sect. 2.

Wreck are things lost by Shipwreck at sea, and all on the shore.
Wreckum maris, called in the same Customary or Voywardy Ordinance
and in one Ancient Charter Sippowep, quati sea-sipowep, that is
Geekis maris, from sippowep, Egiere. This term is found in the
Bris sur le Naufrage. There are very different Laws in Different Nar
tions Concerning Wreck. For both the Law in this matter been always
the same either in England or Holand.

By the Roman Law, Wreck was not confiscated, but left to the
owner before the Disaster: The Roman Emperours being unwilling to aboli
ana Calamitate Confundimus Law Luctuosum dectari li. C. de Naufrage.
Li. ult. pr. De Incendo. Ruin. Naufr. An. thent. Navigia C. de Turto
And a wicked Custom depriving them of it that after words took
footing, was abolished by the Emperour Frederick 2 Except where
the owners are Pirates Enemies or Infidels do. In thent. Navigia, taken
from Const. Frederic 2 de Statut. de Consuetud. Cont. lib. Eccles. Edit.

§ 9. The Canon Law Excommunicates such as Spoil or plunder Christians
Suffering Ships wreck c. 2 De Rapstor.

Those who suffer Shipwreck are saved harmless in Germany by the
Imperial Constitution of Charles 5 (Constitut. crim. art. 216) allowing
them to claim their goods within a year and six weeks, upon pay
ing Salvage Money or some little Recompence for Recovering and