

the King's lieges Under the pain of death, 9 March 1681
William Luchlan.

Some Lawyers will have the Pardonment of a Man
for Marrying another wife, while his first wife is living
to be Mitigated if he had his usual dealing on by with one
of them *Prosa. Marit. de Felicit. carnis qu. 170 n. 31. 8 p.*
200. Vin part 2 qu. 6 n. 52 B. pagg. But in Scotland Marriages
being Contracted by the Mutual promissory oath of the
parties to live together in Conjugal & Chastity, and the
said Bondition, he or she is guilty of Bigamy and punis-
hable as a perjuror, who Marries another wife or husband
and thereby takes a Oath on which is a Violation of
the former, tho they be not Carnally Coupled together
McKenzie Vin part 1; tit. 14 § 5. Quakers may be puni-
sh'd for Bigamy, tho they take no oath of Marriage: *See*
Marriage sup. 68 the oath or Vow of Conjugal Fidelity
tho not Expressly Made McKenzie ibid. § 3. Lawyers are
for alleviating the punishment of man or woman who
after his wife or her husband long a before probably
thin king her or him to be dead, married another, tho
Crime be not taken away, seeing death on by and no long
of time doth *ipse facto* Dissolve Marriage. *Corpus 200. Vin*
part 2 qu. 6 n. 65. McKenzie ibid. § 4. But if the Husband
or wife or husband after he or she was home or if his or
her being alive comes to the knowledge of the Bigamist
it is adultery to Cohabite any longer with the other.
A woman whose Marriage might be Declared Null by Reason
of her husband's Impotency, Marrying another before she
obtains the first Marriage Annulled will be guilty of Adul-
tery: because she is bound to the first Marriage good till it is
Declared Null. *McKenzie ibid. § 5.*

By the law of England, where a Man Marries two wives
one in France and another in England, if the first Marriage
was in France, and the second which made the felony in
England to May be Indicted and tried in England for
and the Jury May on Evidence find his first Marriage
in France that being a Moral transitory Act having

Nothing of felony in it; because Jurists do usually find such
transitory acts the done in a foreign Nation. But if the first
Marriage was in England, and the second in France be cannot
be tried for it in England: because the act which made the
felony was done in another Kingdom and felonies done
in another Kingdom are not by the Common law triable
in England, *See Rep. 77. 80*

By the law of England any person who's husband or
wife shall have continually beyond sea for seven years
tho known to be a living or hath been so long absent may
of the King's dominions, and is not known to be alive, may
marry again; *Stat. cap. 11 § 2. Code 3. tit. 88. Stat. lib.*
121. 122. But the law of Scotland doth not allow of this
time after which a person whose husband or wife shall
may lawfully marry another: only it allows a Divorce
for seven years wilful Desertion *act 55. Stat. lib.*
160. Both the English law (*Stat. cap. 11 § 3*) and our
law (*act 19. Stat. 5 L. M.*) married persons may after their
first divorced marry a third, without being re-married. Biga-
my is not the crime of a Divorcee, tho he or she may be
guilty, who tho the Divorce was made for his or her
fault or Neglect, losing law punishment on by marrying a se-
cond wife or husband while the first Divorcee is divorced,
and doth not in the case of Divorcee, tho he or she may be
from another Marriage upon the guilty person, more
than upon the innocent. For one whose husband or wife
is Divorced Marrying again is not a Bigamist, altho the
Divorce of Divorcee is afterwards Dissolved, and so was no
the first Marriage continued Dissolved, and so was no
Marriage in the eye of the law, tho party was in bona
fide to enter into a new bond of Wedlock

Chap. 6.

Of Adultery, Fornication and Bawdry

Tit. 1.

Adultery, or Defiling the Marriage Bed (so called
quasi