

499. James Wilton 24 June 1614 And now Yelde By whipping burn
ing in the flether and banifment 4 April 1616 6 John.
for Whipping and burning on the back 2. August 1615 11
ham Brown or by banifment 31 March 1637 James Wilton
By the law of England it is felony to steal Hawke & Falcon
39 Edw 3 cap. 15. Coke 3 Inst. 109. Hale pl. Cr. 66. Hen. 8. 1
pl. Cr. lib. 1 Blacs. 33 323 In respect of that very heyl
Value which was formerly set upon those birds for the ex
ecution of Princes and Gentlemen. By the law of Scotland
one who steals a Hawk out of the nest, or takes a Poul
ver from a Hawk with the masters Name or Stile on it,
is liable to a fine of 500 Monet aet 21 Inst. 1 Parl. 7.
stealers ^{and Destroyers} of Green wood or hained Broom, brambles
of Yards or Orchards Dove coats Cummings and par. 61,
without Consent of the owner, must pay to him by and al
lour (as Damage 10 pound for the first fault, 20 pound
for the second and forty pound for the third. Infidels of
sons are to be sent in the stocks, prison or iron 3 days or
bore and Water for a Month, and then to be hewg'd. If
responsible breakers of Dove coats Cummings and
par. are to be hanged for the third fault, all 3 Parl.
6. I. 6 the breakers of Dove coats Cummings and par.
(i.e. pounds) who to be sent those of Dead Roads Cummings
Dove, pick'd fish, hives and bees without special license
of the owner and punishable as thiev'd all 13 Parl. 4.
And the breakers of Yards or Orchards is a point of
Ditty. Where blistrion under age break yards or orchard
their father's or masters must suffer Deliv'r them to the
judge to be fengred, or pay 13 shillings 4 pennies for each
of them all 69 Parl. 6. I. 4.
The punishment of theft is aggravated with respect
to the place where it is committed. By the book the
healing of a thing Dedicated to God in a Consecrated
place by pr. 8 3 1. Ed. L. July 1616 8d. a scotl. pnd.
1. 6. 3 1. f. 10. p. 1. properly bound facitord, as
punishment for the theft part will death w/ 1000.

500

being bad to the thing stolen, the time; the age & originality
of the offender &c &c &c pr. & add. ful. point. & the fact &c
Ex. 22.1 If God. The punishment of sacrilege by the canon law
was a fine sometimes left, severer according to the circumstances
as c. 19. 8cc. lesser, and c. 12. q. 2 c. 21. can. 17. q. 4 c. 22. can. 8. 21
q. 3 & a. 21. And a thief was liable no formal crime of robbery
in Scotland (as in the civil and canon laws) there being no Confe-
ssation of Clerical or Church Stealing here: Yet we know no
law against it, and the stealing of anything Desecrated to
Divine service, as the Communion cup, or before & after, or any
other thing out of a Church, is punished the blow, & Death
McLennan Crim. part 1. Art. 9. 11. sacrilege or stealing of
goods out of a Church or Chapel in England, is not made so
severely punished than other thefts, & Rob. In the Civil
pr. & Civil law pag. 819. Breaches of McLeod and Wolfall
of Robbers of Growing corns & trees, are all punished with
Death Act 82 Parl. II. J. 6. But none have been ever Capital-
ly punished for the Crime of breaking green wood, but
only by pecuniary Mulcts, McLennan observes on act 33 Parl.
2 J. 1. Breaking of houses (2 May) 1601 William Buchton
12 December 1709 William Young 7 Aug. 1714 William
(Baillie & others) or flogged (20 June 1715 John Pringle) and
stealing goods further thereof may be punished with death
if Theft is Capitally punished upon the account of the
time when committed. By the law of God (Exod. 22. 2) and by
the Civil law (c. 45) if ad L. Aquil. l. 11 ad L. Corneli. de Picard
it is allowed to kill a thief stealing in the Night time.
By the law of Scotland one may lawfully kill a thief
breaking his house in the Night time Act 22 Parl. II. J. 6
Ch. 2 whether he hath broken it already or is preparing
to do it McLennan ibid. § 12. For this offence being a greater
terror with it and it cannot be known whether such
a person come to steal or Murder or to do both. One
peaching the floor of his dwelling house in the
hour of the Night and by a short ladder making his
passage to a cellar below, and taking stones a pockfuls