

for victual under the value of twelve pence, nor in Natural Fools, or other persons that be *non compos mentis*; but for Poor entring for Victual at this day, it is Felony in them.

*Unc' si per conversatione de vie, homie emble viands de satisfie son present hunger, ceo nest felony, nec larceny. Car necessitas inducit privilegium quoad jura privata. Stamf. Sir Fr. Ba. 29. & hic postea.*

And as for Infants. See *hic cap. 95. & 104.*

## Theft. C H A P. CLII. V. 100.

**T**Heft is the fraudulent taking away of another Mans moveable Personal Goods, with an intent to steal them, against (or without) the will of him whose Goods they be: And this is of two sorts, Robbery and Larceny. See *Larceny postea, cap. 10.*

§. 1.  
Definition

*Note, That le tortious prisel de biens, ove probable pretence de tittle ne que Trespass.*

*Et nota, quod leges civiles furtum manifestum judicant per redditionem quadrupli: Et furtum non manifestum per dupli compensationem. Dr. Cow. 199. Et vid. Ex. 22. where if the party were not able to make satisfaction, he was to be sold for the Theft.*

## Robbery. C H A P. CLIII.

**R**obbery (in Latin called *Rapina*) is properly the Felonious taking of any thing from the person of another, or in his presence, against his will, by assault in the High-way, or elsewhere, and putting him in fear thereby: And here although the thing taken, be but to the value of an halfpenny, yet it is Felony; for which the offender shall suffer Death, without benefit of Clergy.

§. 1.  
Definition

As if one by the High-way assaulteth me, and taketh away my Purse, Money, or other Goods.

But if a Thief assault me to rob me, and biddeth me deliver my Purse, but taketh nothing from me (in regard that I being too good for him shall apprehend him, or shall levy Hue and Cry, whereby he is taken) this is taken to be no Robbery nor Felony at this day: For although intent may make a Man guilty of Treason (as you may see here before, Title *Treason*) yet in case of Felony, there must be an execution of that which was formerly intended, and resolved to be done, *viz.* to kill the party, or to steal or take away the thing, &c. And therefore in *M. Plow. fol. 259. b. Wall's Sergeant's faith, Que intent de faire tort, sans delict fait nest punishable in no Law, nec le Robbation, Sec. nec le sefaus de l'act est le sole point que nostre Ley respect.*

§. 2.  
What

And yet the assault (yea, to lie in wait) only to rob me, hath been in former times holden to be Felony, as appeareth by the Books, 27 *Ass. p. 38. & 13 H. 4. 7. 25 E. 3. 42. Fitz. Coron. 132. & 267. Br. Coron. 106. 285.*

And so the intent to commit Burglary (or Murder) hath been holden to be Felony; for the Will was reputed for the Deed, *Vide 27 Ass. 38. Fitz. Coron. 383. & Stamf. fol. 17. a.* But the Law is otherwise at this day.

§. 3.  
Taking

In this former description of Robbery, the word (taking) is largely to be extended against the offender: So that although the Thief taketh nothing from my person, yet if he assaulteth me; and upon his assault he