

Apprentices and Servants under eighteen shall be in case as they were before the making of this Statute

Common Law in that Servant (for these Goods were always in the Masters possession, and kept and used by the Servant to the Masters behoof.) But yet there was much difference of opinions herein; for the clearing whereof, in some part, the Statute 21 H. 8. cap. 7. (which was made perpetual, 21 H. 8. 71 P. Felon. 10. Cromp. 56) by the Statute of 5 El. cap. 10. Provided, That all and singular Servants of the age of eighteen years, other than an Apprentice, (which must be understood of such as be bound by Indenture, and by the name of an Apprentice) to whom any Mony, Goods or Chattels, &c. by his or their Master or Mistres shall be delivered to keep of the value of forty shillings, or above; if such Servant shall go away with, or shall imbezle, or shall convert to his own use, any such Mony, Goods or Chattels of the said value, to the intent to steal the same, or to defraud his Master or Mistres thereof, it shall be Felony. But this must be prosecuted within one year after the offence.

And now upon the construction of this Statute of 21 H. 8. divers new Questions and Cases have since arose: As,

If a Man deliver an Obligation to his Servant, to go and receive the Mony thereupon due; and the Servant receiveth the Mony, and then goeth away therewith, or doth convert it to his own use. This is holden to be no Felony within the meaning of this Statute, for the Master did not deliver the Mony to his Servant. Dyer 51

So if a Man delivers to his Servant Wares or Cattle to sell at the Fair or Market, and he selleth them there, and receiveth the Mony, and then goeth away with the Mony, or converteth it to his own use: This is no Felony within this Statute; for he had not the Mony by his Masters delivery, neither went he away with the Goods of his Master delivered him. Dyer 51

But if the Servant received of his Master twenty pound in Gold to keep, which he changed into Silver, and then ran away with that; this is Felony, for that Gold and Silver are both of the same nature, &c. Mony. 28 El. Cromp. 35

And if a Man delivers to his Servant a Horse to ride to Market, or Mony to carry to a Fair, or to buy Cattle, or other things, or to pay to another Man, and the Servant goeth away therewith: This was no Felony by the Common Law, by reason of the delivery thereof to him by his Master: But *quare*, if it be not Felony by this Statute, for that he went away with the thing delivered him. 21 H. 7. 19

If the Goods delivered to the Servant to keep, be under the value of forty shillings; and the Servant goeth away therewith, this is holden to be no Felony at this day. (*Mez tantum un breach del trust que le Mr. repose in son servant.*) But if the Servant shall imbezle, or go away with any Goods of his Masters, which were not delivered to him; this is Felony although they be under the value of forty shillings, &c.

If a Man appoint his Servant to take and carry Corn to Market, and to take his Horse to carry the same upon, and the Servant goeth away with the Corn or Horse; this is Felony in the Servant, if the Goods, he so goeth away with, be all to the value of forty shillings.

But if a Servant wastfully consumeth the Goods, and returneth again to his Master; this is no Felony. And these were the directions of Sir Nicholas Hide to a Jury of Life and Death, upon the Arraignment of a Servant in such a Case at Cambridge Lent Assizes, Anno 2 Caroli Regis.

And if one of my Servants doth deliver to another of my Servants Goods of mine (to the value of forty shillings) and he doth go away therewith, or converteth them to his own use; this is Felony within this Statute, for this shall be said my delivery. Dyer 51

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