

thereof before the Justice of Peace, it shall not be amis to respite the Judgment; and so hath it often been done by the Judges. See *Stamf.* 27. & 3 H. 7. fol. 1. b. & 12. b. & 35 H. 6. 11. Br. *Covent* 80.

At Cambridge Affizes in Lent 1619. before Sir Henry Montague and Sir John Dodderidge, Judges of Affize there, they sitting together upon the Prisoners, an Infant about 14 years of age was arraigned before them of Larceny, and was found guilty, and upon demand of his Clergy had the same allowed him, and was burnt in the Hand.

The like was done there at Lent Affizes 1624. before Sir Randal Crew, Lord Chief Justice. See *Debts & Stud.* fol. 148.

A Bailiff, &c. distrained secretly for Rent, and after selleth the Distress, and when the Owner demandeth his Goods which were so distrained, the Bailiff denieth them; this is felony. *Let. M. Cook.*

If an Escheator or other Officer cometh to a Man, and telleth him that he is Outlawed, when he knoweth he is not Outlawed, and by colour thereof he taketh his Goods; this is felony. But if the party be indeed Outlawed, and the Officer cometh to take his Goods, and the other party sheweth him a *Superseas*, and notwithstanding the Officer taketh away his Goods, this is no felony. *Ibid.*

If an Officer shall levy any Duty for the King without Warrant, this is felony. *Let. M. Cook. Vide my Office of Sheriffs, cap. 126.*

So where any Officer shall levy any Duty without sufficient Warrant or Authority, and shall after convert the same to his own proper use, it seems to be felony.

Of Thefts and Rapines committed upon the Borders of the Counties of Northumberland and Cumberland, and Power of the Justices of the said Counties to secure the same against the Spoils and Rapines of *Moss-Troopers*, see the said Act at large: the same being to continue in force five years, and no longer.

#### Other Felonies by the Common Law. C H A P. CLVIII. V. 105.

**B**urning of a Barn (which is adjoining to a Dwelling-house) in the night feloniously, is felony by the Common Law.

So is it to burn a Barn (in the day time) having Corn in it, and though it adjoining not to the Dwelling-house, *Co. 4. 20.*

Burning of any Dwelling-house, or other House parcel thereof willingly and feloniously done, is felony by the Common Law, whether it be done by night or by day. *Br. Con. 135, 155, 226.*

Burning of any other House, or of a Stack of Corn, feloniously, seemeth also to be felony by the Common Law: for the words of the Statute of *Westm. 1. cap. 15.* (which Statute seemeth to be but a rehearsal of the Common Law) *Br. Mainpr. 78.* ordaineth, That such as be taken for House-burning (generally) feloniously done, be not bailed: and of that Opinion seemeth *Mast. Britton*, who wrote presently after the making of the same Statute; *Britton fol. 16.* See Statute *Winchest. 13 E. 1. cap. 1. & 28 E. 1. cap. 17.* And it appeareth also by *Britton lib. 1. cap. 17.* that such Offenders were by the Common Law to have been burned, *Fitz. 269. b.*

The Book called the *Mirror of Justice*, amongst other Capital Offences hath this, *Le crime de Arson*: And he describeth the Offenders in this sort, *Ardoirs sont qui ardent Cite, Ville, Meason, Home, Beast, ou anters Chattels de leur Felony in temps de Paice, pur pain ou vengeance.*