

§. 27.
Women.
Rape.

Women. *Scil.* To ravish a Woman where she doth neither consent before nor after; or to ravish any Woman with force, though she do consent after, it is felony; and the Offender shall have no benefit of Clergy, 18 *El. c. 6. Br. Cor. 204. Vide Dyer 202.* That Man shall die, by the Law of God, *Deut. 22. 25.*

‘If a Man take away a Maid by force and ravish her, and after she giveth her consent, and marrieth him, yet it is a Rape.

Rape see
antta.

Now Ravishment is here taken in one and the same signification with Rape, which is a violent deflowring of a Woman, or carnal knowledge had of the Body of a Woman against her Will, 9 *Ed. 4. 36. Fl. l. 2. & Co. L. 123.*

A Woman that is ravished, ought presently to levy open Huy and Cry, or to complain thereof presently to some credible Persons, as it seemeth, *Glanville 115.* See the Statute *De Officio Coronatoris*, 4 *Ed. 1.*

Fleta saith, That the complaint must be made within forty days, or else the Woman may not be heard, *Lib. 3. c. 5.* But in *Scotland*, and some other Countries, this ought to be complained of the same day or night that the Crime is committed, (*ut dicitur*;) The reason is, *Quia lapsu diei hoc crimen præscribitur.* *Minsb* and *Dr. Cowel.*

‘And yet in an Indictment of Rape there is no time of prosecution necessary, for *Nullum tempus occurrit Regi.* But in case of an Appeal of Rape, if the Woman doth not prosecute it in convenient time, she shall be barred.

If a Woman at the time of the supposed Rape, do conceive with Child by the Ravisher, this is no Rape; for a Woman cannot conceive with Child except she doth consent, *Finch lib. 2.*

And yet if a Man ravish a Woman, who consenteth for fear of death or duress; this is Ravishment against her will, for that consent ought to be voluntary and free.

All such as are present, abetting, aiding or procuring another to commit a Rape, are principal Felons.

‘If a Man and a Woman be present, with purpose that the Man shall by Violence carnally know the Body of another Woman there also present, against her will, and the Man doth the Fact in the presence of the other Woman, she so present (as well as the Man) shall be a principal Ravisher; the Man the Agent, and the other Coadjutant: And so one Woman may be a Principal to the Ravishment of another, *Dod. 138.*

It is a good Plea in an Appeal of Rape, to say, That before the Ravishment supposed, she was his Concubine, as *Mr. Bracton* saith.

§. 28. And yet to ravish an Harlot against her will, is Felony; for *licet Meretrrix fuerit ante, certe tunc temporis non fuit, cum nequitia ejus reclamando consentire voluit.* *Bract. l. 2.*

Also to take any Maid, Widow or Wife (having Lands or Goods, or being Heir apparent to her Ancestor) against her will unlawfully, is felony; and to receive any such Woman so taken, knowing thereof, or to procure and abet the same, is felony; and they shall all be reputed as Principals: And as well the Principals as Accessaries before the Offence shall lose all the benefit of Clergy, 39 *El. c. 9.*

But this Act doth not extend to any person taking any Woman, only claiming her as his Ward or Bond-woman.

The taking away of a Maid under sixteen years of age, without the consent of her Parents or Governors, or contracting Marriage with her, or deflowring, is no felony; but yet shall be punished with long imprisonment without Bail, or with grievous Fine.

But

11 E. 1. 34
P. Fel. 14,
6 R. 2. c. 6.

Stamf. 22.
Crom. 100

Brit. 55.
Stamf. 24.

5 E. 4. 6.
Br. Parl.
55.

Stamf. 24.

Cromp. 47

3 H. 7. 2.
P. Fel. 16.

4 E. 3. 14.
& M. 8.
P. Women
7, 8.
See Co. 2.
37. &c.