

Ravisher offend, vs. his eyes and his God helo; Glou. lib. 1 cap. 2 lib. 14 cap. 6. Mirror cap. 4 de homicid. Stat. lib. 3 ff. 147. Brit. ff. 37. 39. 45. And at length led to imprisonment and fine at the Kings will 3 Edw. 1 cap. 13. But Lord and it Dispropos persons having ^{been} Incommoded by the severity of the law to Gratify their Extraordinary In the Commission of many shamefull and barbarous Rapes; the Ravisher of a Woman against her will is adjudged to have Judgment of life and Members 13 Edw. 1 cap. 34 and to suffer death without Benefit of Clergy 18 Eliz. cap. 7 § 1. To have Carnal Knowledge of a Maiden under the age of 10 Years, is felony without Benefit of Clergy 18 Eliz. cap. 7 § 4 whether she consented or was forced. Hale pl. Cr. 118. Hawkins pl. Cr. lib. 1 chap. 4 § 55. Taking away a Woman having lands or goods, or that is Apparent to her Ancestor, against her will and Mans consent Defiling her is felony 3 ff. 7 cap. 2 without Benefit of Clergy and the Marriage or Defilement was with her consent 18 Edw. 1. Cr. lib. 1 Chap. 42 § 4. Because the offenders were in the power of a Woman, whom by so doing he got into his power, ought not to Execute him.

By the Civil Law a Ravished woman is not permitted to Marry the Ravisher l. un. § 1. De Raptu Virg. Such a Marriage is allowed by the Canon Law c. p. 2. Bull. x. de Raptu. and the Council of Trent sess. 24 cap. 1. Formerly by the Law of England when the Ravished Woman was adjudged to lose his eyes and his testicles, he might after he stood convicted before sentence Redeem himself from that punishment, by Demanding him for her that she the he could not save himself from the loss of his eyes and his testicles by offering to Marry her Code 2 ff. 178. Now the Ravishing any Woman against her will and before she afterward Consent 13 Edw. 1 cap. 34 or the Carnal Knowledge and abuse of a female Child under the age of ten Years the Consent is 18 Eliz. cap. 7 § 4 being felony in England without the Benefit of Clergy it is put out of the abuse Woman never thought

to save the Ravisher by taking him for her husband. By the old Law of Scotland, it was lawful for a Man charged with a Rape before doom or Judgment given to Marry the Woman with the Licence of the King and his Justiciar and Consent of the parents Reg. Maj. lib. 4 cap. 9. n. 10. And now the subsequent Consent of a Ravished woman, or her Declaration that she went away of her own free will, doth Exempt those who were at and part of a Rape from Capital punishment in a trial for the Crime at the suit of the Woman, as well as Rarest kind fact or just Magistrals advocation, tho it be proved by the Oathes, that the fact was at first Violently done against the woman will Act 4 Parl. 2. c. 6. And the statute d. act of doth Express Immunity from Capital punishment only to those who are at and part of a Rape, and the principal Actor seems to be intended to him by the than the Accessors heid; yet it will be Extended to him by the Intendment, tho he be not within the letter of the Law Wintonie Enm part 1. Tit. 16. 86 because our Law doth Equally punish the Principal and Accessories. Sir George Wintonie (tho) thinks, that if the woman's Consent of her consented to the taking her away, tho she was before unwilling to it, the Ravisher ought not to be punished with death. By the Law of England a Woman's Consent after the fact doth not Excuse from a Rape tho advised of l. Cr. lib. 1. Chaps 41 § 2. But in our Law the Declaration that she is a Ravished Woman or her Declaration that she went away of her own free will doth Exempt from Capital punishment: yet such a subsequent Consent of the Injured Woman doth not free the offenders from an Arbitrary punishment by Imprisonment, Confiscation of their goods, or fining as the King shall thin fit Act 4 Parl. 2. c. 6. ^{the trial of a Rape as being one of the four pleas of the Crown} ^{and to no other Judge in England, tho a Rape may be proved by Oath of Oathment at any time, because nullum incompus occurrit}