they were at Rest, by Rogues there called Robbators.
This Crime is termed in the law of Scotland, Stouth
from Stouth i.e. Stealth and Reif Violence, Robbery being
Violent theft. Those guilty of this Crime, whom we call
Robbers, were formerly in England and on the Name of
bord men or Robbers many from Robin Hood who lived by
Spoil and Robbery upon the Borders of Scotland and Eng
under King Richard 1. of England.

Robbery is Committed either on the land or on the
where of the former goes by the name of Robbery, and the
latter is called Piracy.

Sect. 1.

of Robbery committed on land.

There must be a taking away to make one guilty
this Violent theft. For an Assault or Attempt to Rob
without any taking is not Robbery Hale pl. Cr. 72. If
one lying in the highway to Rob draw his sword or pre
sent a pistol to a traveller, Commanding him to de liver
his purse, and the traveller Resist and Master him
this is not Robbery, tho it be otherways punishable by
Fitzherbert de pace 128 a. But then the English lawyers
Rider very Justly, a twofold taking a S Robbery, viz.
taking in deed, and a taking in law. A taking in deed
when one by force takes from another what Money or goods
he finds about him, or takes what Belongs to him
his person as his horse or Portmanteau, or drives his cattle
out of his ground while he is standing by not daring
Resist him &c. And if one he hath taken any such thing
the thief in Contesting with the owner he let
fall or it be Wrested from him without Recovery
is Reckoned to have taken it and guilty of Robbery
Coke 3 Inst. 68. Hale pl. Cr. 72. 73. Hawkins pl. Cr.
lib. 1 Chap. 34 §1 & 8. For when by the Act of Violence
a Robber is Cried Master of the man's person and

goods, the Crime is Complete, altho his Carrying off the
Booty be prevented and the Effects Recovered by a superior
force. A taking in law, is when a man out of fear looking
to Escape casts his purse into a Bush, and the thief takes
it up which is Robbery Hale ibid. 73. Hawkins ibid. 58. Or
if a thief Compels one by fear to swear, that he will
fetch him a sum of money which he doth Accordingly, and
the thief Receives it, which is Robbery Coke 3 Inst. 68.
Hale pl. Cr. 72 or when one Declares his purse to a Robber
Demanding it, which is Robbery tho the thief finding all the
in the Purse Restored it to him Hale ibid. Hawkins ibid.
55. Or when Villains come into a Man's house to Rob him
he, to stop their Entring the house, throws out money or
plate to them, and they take it up and Depart, which is
Robbery Fulton, ibid. And Like The Bandits getting the Windows of Water, prey, that the prisoner
may be Hang.

A forcible taking away of things from another doth
not make the offender guilty of Robbery, Unless he did
so for the sake of Lucre or gain, pr. 4 & 5 Ann. c. 8 in the Case of
Capt. Hosford where persons out of Resentment against
a Gentleman for his being Instrumental as they thought
in procuring the Malt tax, violently Invaded or broke
into his house, or carried away or broke and Destroyed
any of the Goods or furniture therein, or were aid and part
of any of those facts, were found liable only to an Ar
bitrary punishment, October 1725 James Darroch and
others. Who the Earl of Islay (who as Justice General
and proper was by the Duke of Court obliged to sign
that Interlocutor) Declared by a paper under his hand
Recorded in the Books of the journal 9 October 1725,
that in his opinion it was Contrary to law.

One is guilty of Robbery for such taking of money
or goods of Never so small Value, pr. 1 Edw. vi. Cap.
Kept. Carpzov. Prim. part 2 qu. 99 n. 44 & Sqq. Coke 3