

CRIME AND PUNISHMENT

Crimes

Crimes of all kinds were punished in the medieval period. The main crimes during a war like the War of Independence were **theft**, **spying**, **murder**, **assault** (hurting somebody or their property, also called **trespass**), and **treason** for example fighting against the King of England with Robert the Bruce or William Wallace and Andrew Murray.

Courts

There were three main types of court in Scotland: the **royal courts** (run by the king's officials), **ecclesiastical courts** (run by priests) and **baronial courts** (run by lords). Royal and baronial courts would summon a **jury**, hold a **trial**, decide on a **sentence** for the accused person and then, if found guilty, punish the person.

Punishment

Like the law today, punishment depended on how bad the crime was thought to be. A person could be punished with a **fine** paid to the king, and they were sometimes put in **prison** until they paid this fine. **Hanging** was often a punishment for theft and murder. If someone was too poor to pay their fine, they might be hanged or sometimes the fine was cancelled. In the worst of cases (such as treason or stealing from a church), the criminal was **hung, drawn and quartered**. William Wallace was one of many that the King of England punished this way for being a 'traitor' against the English king. Sometimes an investigation (also called an **inquest**) had to be done to find out more about a case. If the person was found 'not guilty', they were let go (**acquitted**).

Below are sources for different types of crime committed and legal procedures held in Scotland during the War of Independence.

TREASON

Stirling: Tuesday 19 June 1296

The king's lawmen hear the crimes of prisoners held at Stirling Castle.

Thomas, chaplain of Edinburgh, was charged because he excommunicated the king of England publicly with bell and candle. He confesses before the marshal that he did this in contempt of the king. Therefore he is at the king's will.

The same for Richard Gulle, because he rang the bell in contempt of the king. Later they are handed over to the archdeacon of Lothian by the king's command.

Stirling: Tuesday 19 June 1296

The king's lawmen hear the crimes of prisoners held at Stirling Castle.

Thomas of Wooler was charged by the treasurer because he was a vintemar [a commander of 20 infantrymen] and refused to come to the king's muster. He was put to 'peine forte et dure' [hard and forceful punishment – a form of torture to extract information], then released as acquitted.

1 August 1306

Edward I writes to his judges, telling them that Bernard Mowat is sentenced to be hanged for fighting with Robert the Bruce at the Battle of Methven, for killing some of King Edward's officers, and for burning churches in Scotland. Bernard, along with other Scottish prisoners, was executed four days later.

King Edward to his judges: greeting.

I inform you of the charges and sentences relating to a certain prisoner: Bernard Mowat is condemned for being in the conflict between Aymer de Valence, my lieutenant in Scotland, and Robert Bruce, on the Sunday before Midsummer's day that year [19 June], and bearing arms against my army, fighting in the field between St Johnstone of Perth and the town of Methven, and criminally slaying some of my men there who were taken on the field, and slaying Roger de Tany, my valet, in Selkirk forest, and burning and destroying churches in Scotland.

Bernard has appeared before the court and is sentenced to be drawn and hanged. He has no lands or possessions.

MURDER

Edinburgh: 8 June 1296

The king's lawmen hear the crimes of prisoners held at Edinburgh Castle.

Peter de Mompelers, Robert, servant of Gilbert, Alan of Henton, Eustace Mowere, Gilbert Collier and Walter Fernacles appealed to the king about Meurig ab Ieuan, a Welshman, accusing him of the death of their friend William, and of the robbery of his tunic and a sword. But Peter and the others have failed to come to court to prosecute the case, so they are to be arrested.

Meurig says that he is a good and loyal man and is not guilty, and he submits himself to a jury. The jurors say that he is a good and loyal man and is not guilty. Therefore he is acquitted.

Edinburgh: 12 June 1296

The king's lawmen hear the crimes of prisoners held at Edinburgh Castle.

Therenard Barth was charged by the king because he murdered the Welshman Einion Fychan. He submitted himself to a jury. The jurors said that he criminally killed Einion. They said that he had no property.

Sentence: Therenard is to be hanged.

5 July 1296

The king's lawmen hear about a crime that took place in Perth.

Maurice Brown was to answer Marjory of Leeds on an accusation of felony.

Marjory complains that on the Monday after the feast of St John the Baptist in the 24th year of the reign of King Edward [25 June 1296] Maurice came to her house in Perth and took and led away a white mare. Richard of Leeds, her husband, pursued the mare and Maurice killed him.

Marjory therefore accuses Maurice of the death of her husband. Maurice comes and denies the charge, and says that he is not guilty of the death of Richard or of the robbery of the mare. He submits himself to a jury, as does Marjory.

The jurors say that Maurice is not guilty and is therefore acquitted. Marjory is condemned to prison. Later the fine is pardoned because she is a pauper.

Stirling: 18 July 1296

The king's lawmen hear the crimes of prisoners held at Stirling Castle.

Henry Woodward, William Carter, William of Berneston, Henry le Tene and John Organ were charged with the death of a Welshman killed in Roxburgh, namely one of the company of the earl of Hereford.

Charged with the offence in the presence of the steward, they said that they were not guilty of the death of the Welshman and submitted themselves to a jury.

The jurors said that Henry and the others were not guilty of the death of the Welshman and were therefore acquitted.

Elgin: 28 July 1296

The king's lawmen hear the crimes of prisoners held at Elgin Castle.

Ieuan of Gelli-gaer was summoned to court for the death of a boy named John.

Charged with this he says that he is not guilty of the death of John and submits himself to a jury.

The jurors say that Ieuan is not guilty of the death of John. Therefore he is acquitted.

THEFT

Edinburgh: 8 June 1296

The king's lawmen hear the crimes of prisoners held at Edinburgh Castle.

David Gam was summoned to court to answer Richard of Hale on a charge of trespass.

Richard complains that David illegally robbed him of a striped coat at Wheelkirk (Roxburghshire). David came and denied the charge. He said that he bought the coat in good faith in the king's market at Jedburgh for 16d. [about £35 today], and that he did not acquire it by malicious means.

He asked for a jury to investigate the case, as did Richard. The jurors said that David maliciously stole the coat and that he is a thief. Asked about its value they said that it was worth 9d. [about £19 today]. Therefore David was sent to prison.

Sentence: to prison with a fine of 12d. [about £25 today].

June 1296

The king's lawmen hear about a crime that took place in Perth.

John of Chatton was to answer William of Durham on an accusation of trespass. William complains that John illegally withholds from him a sword which he found in John's keeping, to his damage. John says that he bought the sword in the king's market in Perth.

He asks for inquiry to be made, as does William. The jurors say that John bought the sword in the king's market as he said. Therefore it is considered that William should recover the sword. John, because he also bought the sword, is acquitted.

Stirling: 18 July 1296

The king's lawmen hear the crimes of prisoners held at Stirling Castle.

William de la Pole was arrested to answer Robert Scott of Hardlaw on a charge of debt.

Robert has complained that while he was in Edinburgh he sold William 66 measures of beer, each measure worth 8d. [about £18 today], making a total of 44s. [about £1,200 today], William illegally withheld 44s. from him, to Robert's damage of 20s. [about £540 today].

Therefore he brought this to court. William came and denied the charge. He said that he never took anything from Robert, but rather that he found the beer in his lodgings in Aberdeen. The beer he therefore took from the house and not from Robert.

He asked for an inquiry to be made, as did Robert. Therefore the sheriff is ordered to hold an inquiry.

Elgin: 28 July 1296

The king's lawmen hear the crimes of prisoners held at Elgin Castle.

Thomas Dun was summoned to court for the theft of books and vestments [religious robes].

Charged with this he says that he found the books hidden in the ground and that he did not steal them.

He submits himself to a jury. The jurors say that Thomas stole the books and vestments from a church. Therefore he is to be hanged.

Elgin: 28 July 1296

The king's lawmen hear the crimes of prisoners held at Elgin Castle.

William Francis was summoned to court to answer Thomas, clerk of Elgin, on an accusation of trespass.

Thomas complains that when he deposited 476 lamb-skins in the church of St Mary at Inch in order to safeguard them from thieves, the skins were taken and carried off and later found in William's possession. Thomas asked for their return, but William refused to give them up and still has them illegally.

William comes and denies the charge. He says that he bought the skins in Elgin from some unknown men on the preceding Thursday and he is ready to prove this. Later they are given permission to come to an agreement.

November 1296

The king's lawmen hear about a crime that took place in Perth.

Matthew of York was to answer Christiana of Perth on an accusation of robbery.

Christiana complains that on the Thursday before the feast of St Botolph in 1296 [14 June] Matthew came to Perth in the company of a thief named William Wallace and carried off her possessions against her wishes, which he found in her house, including 3s. worth of beer [about £80 today], to Christiana's damage and against the peace.

She brings him to court on this matter. Matthew says that he does not have to answer Christiana because he is a priest. Therefore an investigation is made. The jurors say that Matthew came to the town in the company of William Wallace and that he carried off Christiana's goods as she charged him.

Therefore he is condemned to penance.

ASSAULT

Edinburgh: 8 June 1296

The king's lawmen hear the crimes of prisoners held at Edinburgh Castle.

William the Fiddler and Matilda of Waketon were summoned to court to answer Meurig in an accusation of trespass.

Meurig complained that, on Saturday 2 June, William came and shot at him with a bow and seriously injured him. William said that he neither shot at Meurig with the bow nor injured him.

He asked for a jury to investigate the case, as did Meurig. The jurors said that William and Matilda were not guilty but that if they did do this, they did it in self-defence. Therefore William and Matilda were acquitted. Meurig was fined 12d. [about £25 today].

Edinburgh: 12 June 1296

The king's lawmen hear the crimes of prisoners held at Edinburgh Castle.

Robert Castle and John of Morpeth were summoned to court for fighting.

They made their peace outside the court. Therefore they settled the matter by paying a fine of 2s. [about £54 today].

Stirling: 18 July 1296

The king's lawmen hear the crimes of prisoners held at Stirling Castle.

Gregory, a cobbler, was arrested to answer Madog Clok on a charge of trespass.

Madog complained that Gregory came illegally to Aberdeen and assaulted him about the head and mistreated him, to his damage of 20s. [about £540 today]. Therefore he brought this to court.

Gregory came and said that Madog assaulted him and, while defending himself, he injured Madog.

And because he acknowledged the assault, it was considered that Madog should recover his damages, which are assessed at 2s. [about £54 today], and that he should remain in prison until he has paid.

He is fined 6d. [about £13 today].

ESCAPING FROM PRISON

Stirling: Tuesday 19 June 1296

The king's lawmen hear the crimes of prisoners held at Stirling Castle.

William of Lonsdale was taken because he escaped from prison in England.

When asked how he escaped from prison, William answers that he left by the open door, because of the lack of food, and went to Scotland.

Asked if he came to the peace of the king of England in Scotland, he says no. Therefore he is to be hanged.

SPYING

Wark (Northern England): Wednesday 21 March 1296

The king's lawmen hear the crimes of prisoners at Wark.

William of Whittingham was accused by John of Wigtown, a knight, and sent to prison because it was said that he was a Scottish spy, and that he withdrew from the country where he held lands [England] in order to avoid serving in the king's army against the Scots.

It was said that he is in the following of John 'Red' Comyn, the enemy of the King of England. William comes to the king's court and says that he is not guilty and submits himself to a jury.

The jurors say on oath that he is a good and loyal man, and is not guilty of the offences with which he is charged. Therefore he is acquitted.

Berwick Wednesday 4 April 1296

The king's lawmen hear the crimes of a spy at Berwick.

Walter of Heatherslaw, son of William of Crookham, was summoned to court on suspicions of being a spy and an enemy of the King of England.

Because no one brings charges against him, leaving the matter in the hands of the crown, he is given over to the custody of Sir Walter de Huntercombe on Walter's guarantee. Walter of Heatherslaw says that he is a good and loyal man and he submits himself to a jury.

The jurors say on oath that he is not a spy, but a good and loyal man. Therefore he is acquitted.

Clunie: Thursday 28 June 1296

The king's lawmen hear the crimes of a spy at Clunie.

William of Chester was arrested because he was found keeping watch at night.

Charged with being a spy, he says that he is not guilty and submits himself to a jury. The jurors say on their oath that he is a good and loyal man and is not guilty. Therefore he is acquitted.

INVESTIGATION

Perth: 1 September 1305

Investigation into why a man called Michael of Meigle was in William Wallace's army.

Investigation at Perth on the Wednesday after the feast of the Beheading of Saint John the Baptist, in the king's 33rd year [1 September 1305], in front of Malise, earl of Strathearn, lieutenant of the warden north of the Forth, and Malcolm of Innerpefferay, knight, deputy of the chamberlain, John of Sandale, and William of Bevercotes, chancellor of Scotland.

Articles were brought forth concerning the person of Michael of Meigle written by 25 men who say on oath, in Michael's presence, that he had recently been taken prisoner by force and against his will by William Wallace; that he escaped once from William for two leagues [about 6 miles] but was pursued and brought back by some armed accomplices of William's, who was firmly resolved to kill him for his flight; that he escaped another time from William for three leagues [about 9 miles] or more and was again brought back a prisoner by force with the greatest violence and barely avoided death at William's hands, had not some accomplices of William pleaded for

him. Upon which, he was told that if he tried to get away a third time, he would lose his life.

Thus it appears he remained with William through fear of death and not of his own will.

The earl, Sir Malcolm, and some of the others, append their seals.

PRISONERS

Between April and November 1306

Record of payments made by the English government for expenses of prisoners.

Payment made to the sheriff of Essex for the expenses of Hugh Oliphant, a prisoner in Colchester from 30 September 1304 to 10 April 1306, who held Stirling against the king in 1304.

Between February 1306 and July 1307

Record of payments made by the chamberlain for expenses of prisoners.

Payment made to the keeper of Berwick Castle for expenses of the following people captured at various times and places and sent as prisoners by Aymer de Valence [Edward I's commander in Scotland] to them:

- a chaplain and two boys of the bishop of St Andrews
- the abbot of Scone and a clerk
- Bernard de Alemaunde, John Dynaunt and four others
- German merchants (taken in parts of Dundee)
- Malcolm Lockhart and John of Blair
- the countess of Buchan and her maid
- Mary Bruce and her maid
- Niall Bruce
- the knights Alan Durward and Alexander Murray
- the clerk Alexander de Monymusk
- Patrick Skene
- Adam Chaplain and a boy

All these people were delivered to the master of the barge called 'le Messenger' of Berwick by Aymer de Valence, who ordered them to be taken to Berwick in his barge.

November 1306

Record of payments made by the chamberlain for expenses of prisoners.

Payment made to the sheriff of Cumberland for the expenses of 32 Scots captured in Caerlaverock Castle and taken to Carlisle, of whom 10 were then taken to Appleby, 10 to Skipton and 12 to Newcastle.